rifica Rhode Island Health Care Association

Testimony on H-5012

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Testimony from the Rhode Island Health Care Association— Scott Fraser, President and CEO House Committee on Finance—3/4/21

The Rhode Island Health Care Association (RIHCA) opposes mandatory minimum staffing guidelines of 4.1 hours (H--5012) for the following reasons:

Mr. Chairman, members of the committee, the nursing home industry appeared before this committee last July and gave emotional, compelling testimony as to why passage of this measure would be devastating to our profession. You listened, and held the bill for further study, Since then, nothing has changed. If anything, our financial situation has gotten worse.

At the beginning of my testimony in opposition to this bill last year, I stated:

"This bill is about **the future of nursing homes in Rhode Island**.

If this bill passes, nursing homes in this state will close. Period."

Since that time, even without this legislation passing, we have seen two nursing homes close, several homes have been sold, and one more has filed for bankruptcy.

The home that most recently closed is a 5-star facility. They had no deficiencies. They successfully managed a COVID outbreak.

Still, due to inadequate Medicaid reimbursements, and the threat of these staffing mandates, dozens of residents were displaced and staff were either moved or lost their jobs.

There is no way other homes can comply with the provisions of this bill and stay in business. It really is that simple.

Our homes are in financial crisis <u>now</u>. Two thirds of our residents are covered by Medicaid. Since 2012, Medicaid funding for nursing homes has been cut in all but two years.

By law, Medicaid rates are supposed to go up by an Inflation Index. Since 2012, that index has gone up 27.2%. In that same time, Medicaid rates have only been raised 13%. These reductions have resulted in a loss of \$50 million in this year's budget alone.

I will give you an overview, but you will hear from many of our members who together make up hundreds if not more than a thousand years of experience. They will tell you, first-hand, how dangerous this bill is to the future care of our most frail and vulnerable fellow Rhode Islanders.

First, let's look at the facts--

**No other state has adopted this mandatory 4.1 hour standard.

- **Rhode Island already ranks at the top of infection control and quality rankings in the country with our present level of care
- **Passage of this legislation would result in a huge financial burden to our nursing homes at a time when many are on the financial edge.
- -- The standard of 4.1 hours does not exist in any state. Only the District of Columbia has adopted this measure.
- -- Twenty four states do not have any minimum staffing guidelines.
- --For those with no minimum staffing, many follow CMS (Centers for Medicare and Medicaid Services) guidelines, which require staffing to be based on the acuity (health status) of each resident
- --Of states that have minimum staffing requirements, the average is 2.5 hours of direct care. Direct care is defined as care provided by a nurse or certified nursing assistant (CNA)
- --Massachusetts just adopted a mandatory staffing level of 3.58 hours as of February 1st. This came about after months of hearings and discussion.
 - What is the major difference between what was enacted in Massachusetts and this legislation?
 - ***The Massachusetts law provides \$90 million in funding so homes can achieve the minimum hours required.

Rhode Island is at the top of the charts in many national rankings

- **The most recent report from the US Government Accountability Office (GAO) ranks Rhode Island number one in the nation for infection control
- **In a report released last year, the US Office of Inspector General (OIG) found Rhode Island had the lowest number of inspection deficiencies of any state in the nation over a four-year period.
- **In the 2019 America's Health Senior Report, Rhode Island ranked second in the country in overall quality.
- I ask you to let these facts sink in for a moment. Our state is already at the top of the charts in several independent rankings.

We are extremely successful in the care of our residents with our present staffing rate. These studies show there is absolutely no need to mandate a greater number of hours of care.

--Other New England states:

Connecticut—1.9 hours minimum

New Hampshire—no minimum hours

Maine—Requires direct care to resident ratio of 1:5 during the day, 1:10 in the evening, and 1:15 overnight

Vermont—3.0 hours minimum

Other reasons to oppose mandatory minimum staffing:

- --Staffing is not a "one size fits all" situation. Residents with multiple medical needs require a higher level of staffing than residents in a dementia unit for instance
- --It is best to schedule nurses and nursing assistants in the units where they are needed most, rather than spread equally throughout a home in order to meet some arbitrary mandate.
- -- Passage of this legislation would be very costly to nursing home operators.
 - The American Health Care Association recently completed a cost estimate based on the state's threat to impose an emergency staffing guideline of 3.8 hours.
 - AHCA estimates that it would ultimately cost at least \$75 million dollars to bring staffing up to a level of 3.8 hours.

You can easily add tens of millions of dollars to this figure to reach 4.1 hours

We have submitted that report as part of our testimony.

Even more important is their estimate that it would require the hiring of more than 800 new staffers.

Where are all these additional people going to come from?

When COVID invades our nursing homes, we see staff choose to retire early, or just plain quit out of fear of contracting the virus or bringing it home to loved ones.

The State of Rhode Island found out how hard it is to hire staff when they tried to find enough employees to work at the field hospitals.

Given that this legislation calls for staffing levels <u>above</u> 3.8, the estimates of the cost and number of employees needed will only be that much higher.

- -- Where is the money going to come from to pay for this additional staffing?
- --As I noted, two thirds of nursing home residents in Rhode Island are covered by Medicaid.

 There are no provisions in this bill to provide an increase in Medicaid rates to cover these additional costs.

This is an unfunded mandate.

- You will hear from our opponents that nursing homes have plenty of money—that our owners have been making money hand over fist.
- This simply is not true. Our opponents have cherry picked certain numbers to try to support their case. We urge you to look at the entire financial picture. This information is also submitted as part of our testimony.

There are additional dangers posed by this legislation. They include:

- --Requiring any Medicaid rate increase to be used <u>only</u> for pay increases and **only for a select group of employees.** This would <u>prevent</u> fair compensation for employees not in this select group. And it would prevent a nursing home from using the increase to pay for increased costs for important items like food, a new generator, or safety improvements to the buildings and grounds.
- --There is a mountain of unnecessary paperwork that would be required by this bill. For instance, it requires <u>daily</u> reporting of staffing levels.

 The federal government only asks for this information on a <u>quarterly basis</u>.
- --This measure includes Draconian penalties for not complying with hiring or paperwork requirements

Such penalties include <u>denying</u> future Medicaid payments, and <u>preventing</u> future nursing home <u>admissions</u>

Both would result in closure of more nursing homes in a very rapid succession.

This makes absolutely no sense!

In an attempt to get more staff into our homes, our opponents are asking for penalties which would reduce access to the 24-hour care that our frail and vulnerable fellow Rhode Islanders need most.

Many laws and regulations are already on the books which provide stiff penalties for facilities that fail to meet adequate staffing standards.

We don't need any additional penalties

But please remember....

This is about <u>more</u> than the facts and figures I have given you. This is about **people**.

It is about the residents we serve and care for every day.

Closure of <u>any</u> nursing home means that our most vulnerable fellow Rhode Islanders and their families are forced to find new living arrangements and 24-hour care for their loved ones. This is extremely unsettling for residents and very stressful for families.

Closure of a nursing home also means employees lose their jobs.

Please don't let that happen. I urge you to reject House bill 5012.

Thank you.

ISSUE BRIEF: STAFFING ADEQUACY IN R.I. NURSING HOMES

Nursing homes across the country are regulated by the federal Centers for Medicare and Medicald Services, known as "CMS." CMS makes monthly public reports on each nursing home in the nation, concerning quality of care, for the benefit of consumers who are covered by the Medicare program.¹ Those reports include the adequacy and quality of staffing at each nursing home, including the seventy-nine such facilities operating in Rhode Island.

In order to assess the baseline quality of staffing in our state's nursing homes, we looked at the CMS national and state reports on staffing for February 2020, the most recent data available prior to the disruption caused by COVID.

Measuring Adequacy and Quality of Staffing.

CMS rates each nursing home on the quality of its staffing using a Five Star system, where Five Stars is the highest possible rating, and One Star the lowest. The ratings are derived on the basis of (i) registered nurse (RN) hours per resident per day; and (ii) total nursing hours (RN, licensed practical nurse (LPN), and nurse aide) per resident day, all adjusted on the basis of the nursing needs of the facility's residents. RN hours per day are weighed more heavily than nurse aide hours due to the higher skill level.

The adjustment to reflect the actual nursing needs of the residents (termed the "case mix" adjustment) is particularly important in measuring staff adequacy, because nursing homes care for two very distinct populations. Some nursing home patients are admitted for skilled rehab stays. These individuals arrive from a hospital following strokes, cardiac events, or surgeries such as knee or hip replacement. They stay for a few days to weeks, and are covered by the limited Medicare skilled nursing facility benefit.

A second, and much larger group is the "long stay" residents – those who cannot be safely cared for at home. They were predominantly healthy and productive members of society when they were younger, but now are generally quite helpless, and rely completely on others for care. These individuals have their stays covered by 'Medicaid.

The Medicare-covered patients need significantly more nursing care than the Medicaid-covered residents, and they are distributed unevenly throughout the state. A nursing home's staffing needs depend on the needs of its particular residents, and in large part on how many "skilled" Medicare patients it admits, in contrast to Medicaid patients.²

¹ Consumers can access that information at the CMS Nursing Home Compare website, here: https://www.medicare.gov/care-compare/?providerType=NursingHome&redirect=true. Relevant data sets are published monthly on the CMS website, here: https://data.cms.gov/provider-data/search?theme=Nursing%20homes%20including%20rehab%20services. The staffing quality ratings appear in the spreadsheet entitled "Provider Info."

² There is great variety in the distribution of these patients among facilities, with some having markedly higher Medicare census than others. The Medicare program pays substantially higher rates for the care provided to the "skilled rehab" residents, since these patients require more nursing care. This is why, for example, some Rhode island nursing homes are able to provide 4.1 or more direct care hours per day. They have a higher number of "skilled" patients among their residents, with correspondingly higher revenues.

In addition, there exists variation within those subgroups. Rhode Island has a disproportionately older group of Medicaid-covered residents, who are frailer and more likely to suffer from dementia than the Medicaid population in other states.³ CMS views their actual nursing needs as less intense than is the case for younger, sicker Medicaid-covered residents in other states.

Results: CMS Staffing Ratings

As noted above, CMS rates nursing facilities using a Five Star system, with Five Stars being the highest possible rating for staffing quality⁴. All in all, Rhode Island nursing homes score low for total direct care hours per day, high for RN hours per day, and high for staffing adequacy matched to resident needs, with the result that our average "star" rating for staffing is among the highest states.

As shown on the attached chart, the average rating for the seventy-nine Rhode Island nursing homes under this system in February 2020 was 3.67 stars. Only ten states scored higher.

By cherry picking a single data element, hours of direct care per resident day, the advocates for a minimum staffing rule make it seem as though Rhode Island's nursing home staffing is substandard. When all relevant measures are considered, as performed by the federal CMS, this is clearly not the case.

³ CMS measures the nursing needs of residents via a reporting system termed the "Minimum Data Set" or "MDS." This is a detailed report on the clinical condition of each nursing home resident, which facilities are required to submit to CMS upon the resident's admission and periodically thereafter.

⁴ A detailed explanation of how the staffing rating is calculated appears on pp 6-10 of the October 2020 CMS Five Star Technical Users Guide, available at https://www.cms.gov/Medicare/Provider-Enrollment-and-CertificationandComplianc/downloads/usersguide.pdf

RANK	STATE	NURSING HOMES, CMS AVERAGE QUALITY RATING for STAFFING (Scale is 1 to 5) February 2020
1	DE	4.33
2	AK	4.25
3	ND	4.24
4	HI	4.19
5	ME	4.15
6	MN	4.12
7	WY	3.95
8	ID	3.91
9	WI	3.71
10	СО	3.70
11	RI	3.67
12	WA	3.65
13	OR	3.64
14	UT 🔍	3.61
14	IA	3.56
16	MT	3.54
17	FL	3.54
18	MI	3.54
19	NE	3.53
20	SD	3.51
21	VT	3.43
22	СТ	3.37
23	NH	3.35
24	KS	3.34
25	AZ	3.29
26	NJ	3.29
27	AL	3.27
28	MD	3.21
28	MA	3.18
30	MS	3.09
31	SC	3.08
32	NM	3.06
33	PA	2.95
34	NV	2.90
35	КУ	2.87
36	CA	2.82
37	IL	2.73
38	AR	2.69

39	VA	2.67
40	WV	2.63
41	TN	2.62
42	MO	2.62
43	IN	2.56
44	NY	2.53
45	NC ·	2.51
46	ОН	2.43
47	OK	2.23
48	GA	2.11
49	LA	1.87
50	TX	1.69

Source: Centers for Medicare and Medicaid Services ("CMS"), Nursing Homes Including Rehab Services, Data Archive, February 2020, Spreadsheet "Provider Info," available at https://data.cms.gov/provider-data/archived-/nursing-homes/?redirect=true

New England states are in red.

NURSING HOME POSITION PAPER: S-0002

This bill would require the state's nursing facilities — which today provide an average of 3.6 hours of direct nursing care to each resident daily — to increase that number to 4.1 hours per day. It provides no mechanism for funding such a mandate, (which is wildly out of line with what other states have required), and no suggestion as to how, in the face of a serious workforce shortage, facilities could even find enough staff to satisfy the requirement.

- Federal law requires nursing homes to have a registered nurse (RN) on duty at least 8 hours a day, 7 days a week; and a licensed nurse (RN or LPN) on duty 24 hours a day. (Rhode Island regulations go further, requiring an RN on duty twenty-four hours per day.) Additionally nursing homes are required to have "sufficient nursing staff" to assure resident safety, and to attain or maintain "the highest practicable" well-being of each resident. This requirement is enforced with regular and periodic unannounced inspections."
- Many states incorporate the federal requirement in their state licensure laws, and do not impose a specified minimum "nursing hours per day" requirement. Of the states that do have such requirements, the average minimum is 2.3 hours per day.^{III} NO STATE requires 4.1 hours per day.^{IV}
- Given that facilities today provide 3.6 hours of direct care nursing, they would need to provide an additional one half hour of that care, per resident, per day, in order to meet such a requirement. Where is the money going to come from? Medicaid covers two thirds of the state's nursing home residents. Medicaid reimbursement is demonstrably inadequate to cover the costs of providing care. Covid 19 is ravaging the state's nursing homes. The UHIP disaster has not yet been resolved. Our state's facilities are in extremely precarious financial condition. The 4.1 requirement is far beyond their reach, and if enacted, would cause most nursing homes in the state to close down.
- The federal agency that regulates nursing facilities, CMS, measures and reports on staffing adequacy for each nursing home in the U.S. Rhode Island's nursing homes rank eleventh in the country for staffing adequacy.
 Only Maine ranks higher among the New England states.
- The 1% increase in rates proposed in the FY '21 budget is not adequate to meet the increase in costs that has occurred since the last rate increase. **I No one paying any attention could believe that Medicaid rates are going to rise enough to cover such a mandate any time in the near future.**II
- Aside from the cost problem, the minimum staffing requirement is a bad idea. Nursing home administrators are of necessity quite skilled at allocating their limited resources. Tying their hands by forcing them to assign nurses and nurse's aides according to an arbitrary rule rather than on the basis of patient need would be a thoughtless, simplistic, and ultimately unworkable measure. Our state's facilities use acuity-based staffing placing nurses and nurse's aides where they are needed most on each shift. A unit dedicated to the care of dementia patients, for example, requires fewer nurses (and more activity staff) than a unit for skilled rehab patients. Requiring facilities to pull nurses from the sicker patients who need them most, in order to participate in the music and art activities in the memory care unit, flies in the face of common sense.
- Nursing facilities are already struggling to staff their 3.6 hours per day. Where are these new CNAs going to
 come from? As the state continues to increase the minimum wage while freezing Medicaid rates, it becomes
 harder and harder to retain good staff. Retail jobs are simply more appealing to most than personal care of the
 impaired elderly.*
- We have not addressed many of the other outlandish sections of the bill here (e.g. any increase in Medicaid rates from now on must only go to increasing the wages of union-eligible staff; oppressive financial penalties for non-compliance; laborious new paperwork and administrative requirements). The bill won't work. It will be enormously destructive to those receiving nursing home care.

• Finally, we are aware of the many falsehoods circulating at the State House regarding our "profits" and staffing. For this reason, we have carefully cited sources for our statements here, and urge legislators to do their own fact checking, and to contact RIHCA with any questions or concerns.

The facility would not receive any increased revenue to cover this cost. (In all likelihood the cost would be significantly higher, requiring significant salary increases in light of the existing shortage of CNAs and RNs.)

In keeping with the irrational demands of the bill, facilities would be subjected to huge "monetary penalties" for non-compliance.

According to EOHHS, the state Medicald program paid an average of \$190 per day for nursing home care in FY '18. (See EOHHS SF 2018 Medicald Expenditure Report, available at

http://www.eohhs.ri.gov/Portals/0/Uploads/Documents/Reports/SFY2018 Medicaid Expenditure Report.pdf.)

The extra \$10.45 per day required to furnish an additional half hour of nurse aide staffing would represent a five percent increase in the per diem rate. No one with any familiarity with Medicaid could possibly believe that such an increase is in the offing. Per diem rates have not seen a five percent increase in the past fifteen years, and there is no likelihood of it happening any time in the foreseeable future.

^{ix} Along those lines it is notable that when the State Veteran's Home in Bristol was recently faced with a budgetary deficit, one of the cost-saving improvements they implemented was acuity based nurse staffing. See Providence Journal, November 21, 2019, p. A6. We also note that the State Veteran's Home, which was in the news regularly late last year due to its inability to meet budget

¹ Rhode Island staffing data is posted online, along with that of other states, by the federal Centers for Medicare and Medicaid Services, available at: https://data.medicare.gov/Nursing-Home-Compare/Staffing/aizv-8ir6. This site can be used to fact check the absurd claims regarding staffing (2.2 hours per day??) that are being circulated by certain proponents of the legislation.

¹¹ Specifically, the facility must have "sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial wellbeing of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population in accordance with the [required] facility assessment." 42 CFR § 483.35.

^{II} Connecticut requires 1.9 hours, and Vermont requires 3 hours. Massachusetts and New Hampshire, along with Rhode Island, rely on the federal "sufficient staffing" requirement. Maine does not have an "hours per day" standard, but has minimum ratios of staff to residents for each shift.

^{Iv} The District of Columbia, which is an outlier in many respects, established a regulatory requirement of 4.1 direct care hours per day in 2012. Since then, no other jurisdiction has followed suit.

V The inadequacy of Medicald reimbursement is an inarguable fact. According to MedPAC, an independent agency that advises Congress on Medicare financing, in 2018, the average total nursing home margin—reflecting all payers (including managed care, Medicald, Medicare, and private insurers) was **0.3** percent, down from 2017 (0.5 percent). The average non-Medicare margin (primarily Medicald) was negative, at -3 percent. See MedPAC Report to Congress, Chapter 8, Skilled Nursing Facilities, March 2020, available at http://www.medpac.gov/docs/default-source/reports/mar20 medpac ch8 sec.pdf?sfvrsn=0. The inflated claims regarding multi-million dollar profits that are circulating among certain bill proponents are demonstrably untrue. In 2017 and 2018, the state's 81 nursing homes sustained a net LOSS of \$7 million, as referenced in the BM-64 financial forms filed by individual homes (under pain of perjury) with the Department of Human Services.

vi See attached chart, from https://data.medicare.gov/Nursing-Home-Compare/Staffing/aizv-8ir6. Nursing homes are rated on a 1 to 5 scale, with 5 indicating the highest quality. Rhode-island's average rating is 3.67. The national average is 3.21.

vil Under the best case scenario, facilities could meet the new standard primarily with increased CNA care. According to the U.S. Department of Labor, Bureau of Labor Statistics, in 2019 the average hourly wage for a CNA in Rhode Island was \$15.88. See https://data.bls.gov/oes/#/occGeo/One%20occupation%20for%20multiple%20geographical%20areas. With employment taxes, benefits, PTO, and overhead added, the average hourly cost of employing a CNA in 2019 was approximately \$19. But the 4.1 hour requirement could not be met without significant amounts of overtime, which of course is more costly. The extra half hour of direct nursing care required under this bill would, conservatively estimated, cost \$10.45 per resident per day. Consequently the average Rhode Island nursing facility caring for 100 residents would see its costs increased by at least \$1,045 per day, or \$381,425 per year.

targets, is apparently paid more than twice what the state's nursing homes are paid for nursing home care. This is not to say that the Veterans do not deserve everything we can provide them. They do. But the difficulty that facility is experiencing in meeting its costs illustrates rather dramatically what the state's Medicaid-funded nursing facilities are forced to overcome every day.

* Facilities today pay their CNAs at rates higher than minimum wage, but as the state continues to raise the minimum wage without raising nursing home payments it becomes more and more difficult to maintain that gap.

Center for Medicare and Medicaid Services ("CMS") Data Nursing Facility Staffing, 2020

The federal agency that regulates nursing homes is the Centers for Medicare and Medicaid Services ("CMS").

In order to aid consumers, CMS measures and rates the **staffing** for each certified nursing home in the United States, on a scale of 1 to 5, with 5 being the highest quality. Those ratings are publicly reported on the Medicare "Nursing Home Compare" website, at https://www.medicare.gov/nursinghomecompare/search.html.

According to CMS, Rhode Island is one of the top states when it comes to nursing home staffing, at eleventh in the country. Of the New England states, only Maine ranks higher. (See attached chart.)

This is true despite the fact that we are on the low end for direct care nursing hours per resident per day. Staffing adequacy is measured by three factors: the nursing needs of the patients, as determined by their clinical condition; the number of RN hours provided per patient per day; and the total number of nursing hours per patient per day. With those three factors considered, Rhode Island nursing homes score very well on staffing adequacy.

CMS posts Five Star ratings on a monthly basis, although the staffing data is calculated quarterly (i.e. a facility will have the same staffing rating throughout the calendar quarter).

Each month, CMS posts the data it used to calculate the month's Five Star ratings on its Data Archive website, at: https://data.medicare.gov/data/archives/nursing-home-compare.

The information on the attached chart is taken directly from that website.

CMS, State Average Rating for Staffing Adequacy (1-5 Scale, higher is better)

RANK	STATE	(1-5 Scale, higher i Quarter 1, 2020
1	Delaware	4.33
2	Alaska	4.25
3	North Dakota	4.24
4	Hawali	4.19
5	Maine	4.15
6	Minnesota	4.12
7	ldaho	3.96
8	Wyoming	3.95
9 "	Colorado	3.71
10	Wisconsin	3.70
11	Rhode Island	3.67
12	Oregon	3.66
13	Washington	3.65
14	Utah	3.61
15	lowa	3.58
16	Florida	3.54
17	Montana	3.54
18	Michigan	3.54
19	Nebraska	3.53
20	South Dakota	3.51
21	Vermont	⁸ 3.43
22	Connecticut	3.37
23	New Hampshire	3.35
24	Arizona	3.32
25	Kansas	3,31
26	New Jersey	3.30
27	Alabama	3.27
28	Maryland	3.21
29	Massachusetts	3.19
30	Mississippi	3.09
31	South Carolina	3.08
32	New Mexico	3.06
33	Pennsylvania	2.95
34	Kentucky	2.87
35	Nevada	2.86
36	California	2.83
37	Illinois	2.75
38	Virginia	2.69
39	Arkansas	2.69
40	West Virginia	2.63
41	Tennessee	2.62
42	Missouri	2.62
43	Indiana	2.57
44	New York	2.53

45	North Carolina	2.52
46	Ohio	2.44
47	Oklahoma	2.24
48	Georgia	2.11
49	Louisiana	1.87
50	Texas	1.69

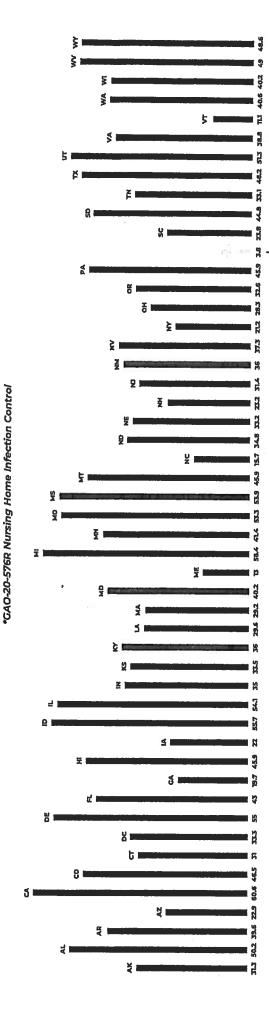
Source: Centers for Medicare and Medicaid Services ("CMS") Nursing Home Compare Data Set, Staffing, at https://data.medicare.gov/Nursing-Home-Compare/Staffing/aizv-8ir6

Average Staffing Rating, per State 3.21
National Average Staffing Rating, per individual facility 2.91

RI Nursing Homes are at the Top in Quality

Rhode Island scored best in the country in infection control.

Percentage of surveyed nursing homes with an infection prevention and control deficiency cited



Rhode Island's nursing home quality is ranked #2 in the country.

RI has the lowest percentage of deficiencies in surveyed nursing homes (3.8%)

Nursing home quality rating



*American Health Rankings 2019 Senior Report









REVERSE THE TREND

Stop Cuts to Nursing Care for RI's Frail Elderly

Unfunded mandatory hours will decimate RI's nursing home industry. Millions in Medicaid cuts since 2012 have left our homes on the verge of collapse.

Three bills in RI aim to mandate 4.1 hours of care.

Not One of the Fifty States has a 4.1 Hour Minimum.



Rhode Island Follows CMS guidelines based on acuity.



Massachusetts Follows CMS auidelines based on acuity.



Connecticut 1.9 hours minimum

RI consistently ranks in the top in the nation for quality of care.

Our thousands of tireless workers deserve to be paid adequately. This requires proper Medicaid reimbursement, not unfunded mandatory hours.

Nursing home workers deserve to be paid adequately. COVID-19 has brought this to light now more than ever. Our staff including CNAs, nurses, maintenance workers, housekeepers, and more, are some of the hardest workers in RI. They dedicate not only their time, but their hearts to providing quality care for those who need it most.



WestShore is like my home, my residents and co-workers have become like family. and I get to help people every day. It doesn't get much better than that!

> Lashawna Thomas CNA

WE URGE YOU TO REVERSE THE TREND

PROVIDE THE MEDICAID FUNDS OUR ELDERLY NEED





m Rihca.com @ @Rihealthcareassociation



RI Must Fund Nursing Homes To Protect our Elderly and Workers, Not Pass Mandatory Hours

Presently, there are three bills in the legislature which would impose mandatory staffing hours on nursing homes.

Rhode Islanders should be assured that our nursing homes are among the top rated homes in the country. According to the most recently released government reports, RI was listed first in the nation for infection control by the U.S. Government Accountability Office (GAO) and the 2019 American Health Senior Reports ranked RI as number two in quality in the nation. (The Providence Journal article June 8, "RI Nursing Homes Among U.S. Best.")

In terms of staffing hours, RI ranks above MA and CT with registered nursing hours at .85, while MA is at .71 and CT is at .70. Rhode Island has an average of 3.62 total staffing hours, comparable to MA and CT at 3.74 and 3.7, respectively. In many states, nursing homes like those in RI and MA follow the CMS federal guidelines for staffing. And while CT mandates staffing hours, it is at 1.9. There is no state in the nation that mandates 4.1 staffing hours, as proposed in these bills.

What mandatory staffing really is, is an unfunded mandate making Rhode Island an outlier in the nursing home industry. If passed, these bills will decimate the homes our elderly rely on for care and result in jobs lost across the industry in RI.

After years of funding cuts to Medicaid reimbursement, this legislation would impose yet another burdensome cost on our homes. What is needed is adequate funding from Medicaid so that workers can receive the compensation they deserve.

Our homes were coping with difficult times before, and we are now teetering on the financial edge with the COVID-19 crisis. Adding an unfunded mandatory staffing hour regulation will exacerbate this funding issue.

We are small businesses employing thousands of RI workers and caring for thousands of RI's frail elderly. We urge the legislature to protect the jobs of our workers, the homes of our residents and the commitment of our small businesses by rejecting these bills.

REVERSE THE TREND

Stop Cuts to Medicaid for Our Frail Elderly

THE TRUTH AND NOTHING BUT THE TRUTH

The state's 81 nursing homes and our workers are taking care of RI's most frail elderly each day, working with our heads and our hearts. We've continued to do this despite cuts to Medicaid of more than \$50 million since 2012.

Yet, outside groups are circulating FALSE claims to legislators and our workers, residents and their family members.

FALSE Claim:

Nursing homes made \$100 million in profit in 2017 and 2018.

The TRUTH:

Claims of hundreds of millions in profits are laughable. In 2017 and 2018, the industry's nursing homes had a loss of \$7.9 million*

'According to BM 64 Cost Reports filed by individual homes

FALSE Claim:

RI nursing homes staff at between 2.2 and 3.0 hours and provide the least amount of care.

The TRUTH:

RI's average staffing hours are at 3.6* and our homes rank #2 for health care quality in the nation**. *CMS, Medicare.gov **America's Health Rankings 2019 Senior Report

This achievement comes even as RLis facing a severe CNA staffing crisis and the state continues to withhold our rightful Medicaid reimbursement.

FALSE Claim:

Staffing at 4.1 hrs should be mandated in law.

The TRUTH:

Our workers DO NOT need mandatory hours and homes do not need another unfunded mandate. We need the Medicaid funding we are owed. This mandate would devastate the industry.

4.1 hours would make RI an outlier in the country. CT has a 1.9 mandate, MA has no mandate and like RI, follows CMS industry guidelines.

It is in the best interest of nursing homes to provide quality care to their residents. Quality care for each resident is not based on a randomly promoted set of hours. It is based on acuity, resident needs, and the training of quality staff.

These FALSE claims must stop. The truth is the critical tool in this fight for our residents and employees.





Nursing Home Revenue Data

Nursing homes operated in the red for the years 2017 & 2018. Other insinuations are simply not true.

Rhode Island Nursing Homes

Summarized Data per 2017 & 2018 Medicaid BM-64 Cost Reports, as Filed with the RI Office of Health and Human Services (82 Nursing Homes)

For the Years 2017 & 2018

Total Revenues as Reported in the Medicaid Cost Report

\$1,615,995,902

Total Expenses as Reported in the Medicaid Cost Report

(1,623,987,079)

Total Expenses in Excess of Revenues as Reported

\$ (7,991,177)

Disclaimer: the 2017 and 2018 information illustrated above has been summarized by blumshapiro from the data included in the 2017 and 2018 Medicaid cost reports, as filed with the State of Rhode Island, Office of Health and Human Services. This information was obtained through a freedom of information request. blumshapiro has not certified or verified the accuracy of the data included in the 2017 and 2018 cost reports or the data illustrated above.

The care of 22,000 nursing home residents is in jeopardy.

Dear Fellow Rhode Islanders:

We regret to inform you that if H-7624 and S-2519 are passed in this legislative session, our businesses will no longer be sustainable and many nursing homes will be forced to close. This means bankruptcy for many in the industry. We employ more than 10,000 hard-working Rhode Islanders and care for 22,000 frail elderly residents each year.

This legislation will impose unfunded staffing mandates on our industry. It will cause a significant number of employees to lose the jobs they love. Our frail elderly residents could lose their homes and access to the high-quality, compassionate care we provide in the state.

As things stand, we are grossly underfunded by the Rhode Island Medicaid program. The UHIP disaster has not yet been resolved. The chaos with MTM (transportation for the elderly) is ongoing. Now, this legislation is poised to add further unfunded mandates. In addition, it restricts our ability to run our facilities for the best benefit of our residents. This legislation will make Rhode Island an outlier compared to the nation as a whole.

This is BAD legislation. We are asking for your help – please write or call your state senator, representative and Governor Raimondo. Tell them you want to save what we have. Tell them your frail and elderly family members need care. Tell them you care. Don't turn your backs on our 10,000 hard-working employees and the 22,000 frail elderly residents who depend on them.

Respectfully,
Rhode Island Health Care Association

Our Member Homes:

Apple Rehab. Clipper . Westerly Apple Rehab. Watch Hill • Westerly Bannister Center - Providence Bayberry Commons • Pascoag Borkshire Place • Providence Brentwood Nursing Home · Warwick Briarcliffe Manor • Johnsto Brookdaje Sakonnet Bay • Tiverton Brookdale South Bay • S. Kingstown Cedar Crest Nursing Centre • Cransto Charlesgate Nursing Center · Providence Cherry Hill Manor • Johnsto Cra-Har Meadows · Cranston Crastwood Nursing and Rehab. Center • Warren Eastgate Nursing and Rehab. • E. Providence Eldarwood at Riverside • E. Providence Elderwood at Scallop Shell • Peace Dale Elmhurst Rehab. & Healthcare Center · Providence Eimwood Health Center . Providence Evergreen House Health Contor • E. Providence Friendly Home · Woonsocket Colden Crest Hursing Centre • N. Providence Grand Islander Center • Middletown

Grandview Center + Cumberland Greenville Skilled Hursing & Rohab. Greenwood Caro & Rehab, · Warwick Harris Health Care Center-North • Central Falls Heatherwood Nursing - Newport Hebert Health Center - Smithfield Heritage Hills Nursing Centre · Smithfield Holiday Retirement Home . Manville Hopkins Manor Ltd. • N. Providence John Clarke Retirement Center • Middletown Kent Regency Center · Warwick Kingston Center · West Kingston Mansion Nursing Home . Central Falls Morgan Health Center, Inc. • Johnston Oak Hill Nursing & Rehab. Ctr. · Pawtucket Oakland Grove Health Care Cntr. · Woonsocket Overlook Nursing & Rohab, Ctr. . Pascoag Pawtucket Health Cere • Pawtuck Respiratory & Rehab, Ctr of RI . Coventry Riverview Healthcare - Coventry erts Health Centre • North Kingstown Royal Middletown - Middletown

Royal Westerly · Westerly Silver Creek Manor, Ind. • Bristol Stillwater Assisted Living and Skilled Nursing Community • Greenville South County Nursing and Subacute Center • N. Kingstown South Kingstown Nursing and Rehab Center • W. Kingston Summit Commans . Providence Sunny View Nursing Home • Warwick The Cove at Grace Barker . Warren Trinity Health & Rehab. . Woon: Village at Waterman Lako - Greenville Villago House - Newport Warren Skilled Nursing and Rehab. Conter • Warren Waterview Villa, Inc. · E. Providence West Shore Health Center - Warwick West View Nursing and Rehab Center • W. Warwick Westerly Health Center · Westerly Woodpecker Hill - Greene Woonsocket Health & Rehab. . W.



Rhode Island Health Care Association 57 KILVERT STREET, SUITE 200, WARWICK, RI 02886-1009 (401) 732-9333

FAX (401) 739-3103 www.rihca.com

March 17, 2020

Dear Governor Raimondo and Dr. Alexander Scott:

As you know, the Rhode Island Health Care Association (RIHCA) represents 64 nursing homes in RI that are working with our most frail elderly citizens each day. Today, we have thousands of employees serving on the front lines of the COVID-19 pandemic. We are thankful for your guidance as state leaders thus far. We have implemented new protocols and stand ready to do our part in this crisis. We also know it is critical that the concerns of our nursing home members are brought to you expeditiously during this time. Please pay heed to our list here:

1. We are in need of licensing and regulatory relief due to a severe shortage of CNAs and other healthcare workers. This ongoing worker shortage will be magnified during this escalated health crisis. We are facing the likelihood that staff who become ill and those tending to family members at home will drive this crisis even deeper.

In order to properly run our homes, we need to be able to get workers onto the floors quickly and to do so, need new licensing protocols through regulatory relief as well as assurance that BCI checks will continue. In this low unemployment economy, workers have gone to other higher paying jobs. We need to encourage as many as possible to work for our homes and do this now.

We ask the state to commit to using National Guard troops with medical training (Military Occupational Specialists) to augment staff in facilities where staff shortages are critical.

A few other raw ideas include allowing second year nursing school students to be immediately qualified to work as CNAs, with communication from you to URI, Salve, and other colleges to effectuate this; automatic extensions of expiring licenses and certifications for all CNAs, RNs, and LPNs for so long as the Declaration of Emergency is in effect; an anti-gouging order for nurse staffing agencies; emergency certification and licensure reciprocity for health care workers from other states - most will be busy in their home states, but this will be helpful in individual cases. We also suggest that DOH permit non-nurse staff such as activities directors and social workers to provide hands on patient assistance under supervision.

2. Our workers need a child care solution or they will not come to work. With schools and daycares closed, many of our aiready strained workers will be left with little choice but to stay out of work. We understand the reasons for this around the health of the public. Yet, with a worker shortage already in play, this will further try our system of care. The daycare and school systems are necessary parts of making our workers' lives work. We ask that the state consider solutions provided in other states such as Washington to provide day care to the children of health care workers starting as quickly as possible.

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3. PLEASE keep our facilities safe by testing hospital patients before they are sent to a Skilled Nursing Facility (SNF). Presently, RI DOH is not recommending hospitals test all patients for COVID-19 prior to sending them to a nursing home. We believe this is a mistake. Sending people who have not been tested into an environment where every resident is at high risk of contracting this infection if exposed, is unsafe.

We understand that most people are not getting tested unless they are experiencing symptoms, yet we have seen that people may be asymptomatic and still carry this disease. Perhaps there may be other criteria considered, such as testing those who have not been in a hospital for more than 14 days, but we request others be tested. As Is your priority as well, we must keep our residents safe. As you know, a nursing home resident was recently diagnosed with COVID -19. We have not received confirmation as to how the virus was introduced into the affected facility. But we must wonder if it was from a hospital or community admission or some other manner.

4. We need adequate PPE and a written protocol outlining how they are regulated and able to be used in this time of crisis. The shortage of Personal Protective Equipment (PPE) risks the health of our workers and residents. High level masks, gloves, isolation gowns, regular face masks, are critical to providing the best care and protecting our teams and other residents. We understand at this time, the State has made requests for the remaining 75 percent of the stockpile and we thank you for your advocacy. We cannot go long without these. Our Congressional delegation is also working to secure these supplies.

In the meantime, some of our facilities have been provided with expired equipment such as masks, or have not received their full ration. We want to be in compliance with regulations during this crisis, but need further guidance to do so. Therefore, we request an official document outlining the ways we are and are not able to use equipment to be sure we both meet regulations, or understand which ones have been lifted and also meet immediate needs. If there is any learning from other countries as to effective substitutes when masks, etc., run out, it should be disseminated as soon as possible.

- 5. We Need and Request a Clear and Consistent Line of Communication: We have spoken to a number of different individuals in your administration and in the DOH and although your staff has been helpful, we need to have a direct person and decision maker from your offices to communicate with regarding decisions which surround how we support and care for our residents and workers during this escalation.
- 6. Continue Hospital Transmissions: We have been assured by DOH that hospitals will continue accepting patients from SNFs when needed. We expect those with needs for equipment and care only hospitals can provide will continue to be transported. We ask that this remain the path for our extremely ill patients.

At the Federal level:

We are working with our congressional delegation and AHCA to help secure funds for RI to fight COVID-19, to secure PPE, and to advocate for COVID-19 test kits. We know you will be supporting these efforts and thank you for doing so. We look forward to continuing our communication with your offices daily and encourage you to use us as a resource for information on the homes at this difficult and important time. We would appreciate any further insights and direct answers you can provide.

Sincerely,

Scott Fraser

President and CEO

c: Hon. Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

Hon. Seth Magaziner

Hon. Peter Neronha

Hon. Nicholas Mattiello

Hon. Dominick Ruggerio

rifica Rhode Island Health Care Association

57 KILVERT STREET, SUITE 200, WARWICK, RI 02886-1009 (401) 732-9333 FAX (401) 739-3103 www.rihca.com

March 24, 2020

Dear Governor Raimondo and Dr. Alexander Scott:

As a key front-line health care industry, we believe it is critical to keep you informed of our concerns about how we can best keep our residents and workers safe. Last week we wrote to you about a number of issues facing our homes, and though we have been in continual contact with your teams as a result of the issues in this unprecedented time, we have questions coming forward as the response to COVID-19 evolves.

We want to be certain you are fully aware of our precarious situation. Our state's nursing facilities are working harder than they ever have, around the clock, to protect our residents from COVID-19, which poses a deadly threat to the frail elderly. We have been successful so far, and believe we can continue to be successful, but only if we receive certain additional support from the state. Here is what we need:

1. A staffing process to activate *immediately* when a facility needs it; once the virus has infected either residents or staff. We also need a strong daycare option for our workers equivalent to the one you announced for the hospital staff.

We have informed the state on multiple occasions in the past two years that we have been in a worker crisis. This is happening for two reasons: 1. low unemployment and opportunities with higher wages have attracted CNAs and nurses to leave the industry and 2. Medicaid cuts by the state in the last eight years (also resulting in the loss of significant federal funds — more than \$50 million state and federal funds in total) have left us unable to hire CNAs at the pay level they deserve for the intensive work they do. As a result, we have regularly struggled with staffing our homes.

Right now — today — we are *already* working shorthanded due to screening out staff who have any symptoms of illness whatsoever and school closures. (Many of our nurses and CNAs are single mothers.) We learned today the state has arranged emergency child care at Boys and Girls Clubs and YMCAs, etc. for hospital staff only and that our workers would be eligible if the hospital staff did not use all the spots. This is unacceptable and we ask that this be reconsidered immediately to include our staff.

If a member of a facility's direct care staff becomes III with COVID-19, he or she will be placed in quarantine, as will all staff and residents who have had face-to-face contact.

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Our residents need staff to care for them and the need for more staff, when it arises, is likely to be sudden and overwhelming.

We have asked the state to commit to using National Guard troops with medical training (Military Occupational Specialists) to augment staff if and when a facility is struck — this request was denied by the state. Again, we ask you to reconsider this and make National Guard troops available if needed.

It was suggested in response to this request that "Nursing homes should continue to be preparing emergency plans to ensure staffing if staff are impacted by COVID-19." We want to be clear that none of today's emergency staffing solutions will work in the current crisis. Unfortunately, we cannot draw staff from other facilities, other states, or nursing pools. We cannot move the residents out to other facilities or hospitals. The solution will have to be one that has not been thought of or tried before. We are requesting your assistance in advance as we can see a need is imminent.

We have some ideas:

We have asked the state to seek a Section 1135 waiver to permit facilities to use any
individual as a nurse's aide as long as the facility deems the individual competent to
provide nursing and nursing related services, and the individual works under the
supervision of a RN or LPN.

Those who have been laid off in other industries might be willing to take on this work, and your offices could help arrange a means to communicate with them. We will need more than a handful of new nurse's aides, and the need, if and when it arises, will be sudden and overwhelming. So far, we do not have a response to this request.

- We are thankful to be able to use CNA students who have not yet completed their tests for a 90-day period, but request this be extended to help address this crisis.
 Ninety days is not enough.
- 2. Access to PPE is critical. When and how can we expect this to be distributed to our homes? We understand there will be forms online for our members. When can we expect to find these forms, what is the criteria for distribution and what information do you need from us in order to access much-needed supplies?

We realize this is a national issue, as well. Our healthcare workers are risking their health and that of our residents by reusing masks and gowns. At the same time, out of state companies are offering PPE at astounding rates, for example an M95 mask costing .85 cents is now \$4-7 per mask. Our nursing homes are already underfunded due to Medicaid cuts by the state. We have heard from you and your team that you are

procuring these items through donations and other means. The answer to how these will be distributed to our homes and when is of chief concern now.

3. Funding: Nursing homes are in need of funds to cope with the additional financial burdens placed on our facilities. Today we are paying a third of our staff or more at overtime rates — 1.5 times regular pay. We are also paying for all the extra infection control supplies we can locate, at the inflated prices described above. As Medicaid-funded providers, we deal with chronic funding shortfalls, which the current situation is exacerbating. We are running out of revenues almost as quickly as we are running out of PPE. We will need an infusion of funding from the 6.2 percent increase in FMAP, as well as a temporary suspension of the Provider Tax.

We continue to work closely with our federal delegation on the issues around PPE and federal funding opportunities, as well.

On behalf of our 64 nursing homes, I thank you both for answers to questions in our last letter including clarification on the lifting of regulations around staffing and equipment and the efforts to provide daycare options to our healthcare workers.

Providing answers to the questions presented in this letter will help us work together efficiently and effectively to protect our workers and the vulnerable population, our frail elderly, who call our nursing homes, home.

Thank you in advance for your understanding of these critical needs and for your response and consideration.

Sincerely,

Scott Fraser

President and CEO

c: Hon. Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon, Dan McKee

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Hon. Seth Magaziner

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March 24, 2020

Dear Legislator:

We hope you and your families are keeping safe and healthy during this unprecedented time. COVID 19 poses a deadly threat to the frail elderly and our nursing homes care for more than 22,000 elderly annually. As this crisis evolves, we are having consistent communication with Governor Raimondo, Dr. Alexander Scott and their teams and providing information regularly to the federal delegation and the leadership of the General Assembly. As elected officials, you have hundreds of nursing home workers, residents and their families as your constituents, and in many cases, have a nursing home situated in your own district. We would like to be sure you too are informed about how we are working together with the state and federal government to keep residents and workers safe.

Life for people across the state has certainly taken on the unexpected as they hunker down and work from home, become teachers for their children, and serve as caretakers of family members. In the healthcare industry, our workers do not have a work from home option. In fact, their work has become more intensive and they have moved to the front lines of this crisis.

We recognize and appreciate the Governor and Dr. Alexander Scott's leadership and the strong policies they put in place to quell the spread of COVID 19. Closing the nursing homes to visitors for example, although heartbreaking for our staff and family members of residents, was the right thing to do. Because of this swift action, and the diligent work of our nurses, CNAs, dietary staff, maintenance staff and administrators, we have been successful so far in keeping this virus from our homes. We believe we can continue this success with additional support from the state in a number of areas.

Our chief concerns as we move further into this crisis are:

- Ensuring access to staffing resources such as national guard or additional reserves when needed.
 - o We have been experiencing a years' long staffing shortage. This crisis will exacerbate this issue. To provide some background: We have informed the state on multiple occasions in the past years that we have been in a worker crisis. This is happening for two reasons: 1. low unemployment and opportunities with higher wages have attracted CNAs and nurses to leave the industry and 2.

Medicaid cuts by the state in the last eight years (also resulting in the loss of significant federal funds – more than \$50 million state and federal funds in total) have left us unable to hire CNAs at the pay level they deserve for the intensive work they do. As a result, we have regularly struggled with staffing our homes.

- Procuring PPE is critical and we are seeking answers to how and when these will be distributed to our homes.
 - Cost of PPE from national vendors has risen from .85 cents per mask to \$4-7 per mask. The state's stockpile acquired through purchase or donation should include access for nursing homes.
- We need increased funds to cope with the additional financial burdens placed on our facilities.
 - o We will need an infusion of funding from the 6.2 percent increase in FMAP which has been delivered by the federal delegation, as well as a temporary suspension of the Provider Tax to keep up.
- We request access to the same level of daycare assistance as hospital workers have been offered
 - We have asked the governor to expand access to facilities such as YMCAs and Boys & Girls clubs to ensure all our available healthcare workers can come to work. Care.com is not an adequate solution for nursing home healthcare workers.

We hope your knowledge of these concerns will assist you in your work as an elected official. Please call me or your local nursing home administrator if you have any questions or concerns. The administrators are happy to speak to you and will provide an overview of their particular home and how they are managing through this crisis. We have included a list with this letter so you have their name and phone number.

On behalf of our 64 nursing homes, please know we and our teams will continue to work tirelessly to protect and care for our residents. Thank you for your interest in what we do each day.

Scott Fraser

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April 8, 2020

Dear Governor Raimondo and Dr. Alexander Scott:

We at RIHCA, and our 64 nursing home members, are grateful for your extended hand. You have assisted on a number of concerns we have presented including testing of hospital admissions, providing needed PPE and increasing Medicaid reimbursement. The impact of this virus continues to grow, particularly in relation to nursing homes. As a result, there are a number of concerns which have been exacerbated in the last week. This letter reiterates some of those we have previously brought forward, lists newer issues that have arisen, and offers some solutions.

1. Staffing is our major issue: Our situation is dire. Every day we lose a few more workers to illness, child care needs, or to fear of contracting the virus. It's adding up quickly.

We cannot hire our way out of this crisis. Even if there were new applicants available, we do not have time to solicit, interview, and screen new employees (e.g. criminal background checks and vaccinations are required).

We fear the situation is approaching where a facility will need to be evacuated because of lack of staff. Not only would that put our residents at risk, we do not know where they could be sent.

We have three proposals for addressing the staffing situation.

Our staff are crucial workers on the front lines and they deserve additional pay. We suggest a \$1,000 additional payment to each staff member each week. Our staff members are risking their health and their families' health by coming to work. Every person who works in a nursing home is critical to protecting the health and safety of residents. We need to pay incentives to our staff – they deserve it.

We are thankful for the 10 percent increase in per diem rates, which will be helpful but not sufficient. Between staff overtime and price gouging on needed supplies we are running out of cash as quickly as we are running out of PPE.

We request the state create a "Strike Team" to activate when a facility is in crisis. We understand the state is gathering retired and part time health care workers through Rhode Island Responds, and that nursing students can become Certified Nursing Assistants ("CNAs") without the usual testing. Individual nursing homes are not in a position to locate, reach out to, or hire these individuals. We need central coordination by the state, to assemble these teams based on their capabilities.

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For nursing homes, such a Strike Team would include RNs, LPNs, and CNAs for patient care. (Unlike hospitals, we do not have an urgent need for physicians.) Nursing homes provide total care to our residents – this includes meals, laundry, and cleaning in addition to nursing care. We are just as likely to lose housekeeping and kitchen staff to the COVID-19 virus as we are nursing staff. Therefore, individuals who can conduct these tasks should be included on the Strike teams as well. In the current emergency, these jobs would not require extensive training – anyone willing to do so could help out in the kitchen, or clean tables, beds and floors. These tasks are crucial to the health and safety of our residents. For these roles, no health care credentials or specialized training would be required. National Guard troops could certainly be used in this role.

In addition, we ask you to provide certain waivers to allow us to make full use of the staff we have today. We need release from regulatory constraints so that we can use all staff, for all tasks. For example, our activity aides and dietary aides are familiar with our residents, and understand how to work with the frail elderly. In this crisis they could help with basic care, if not for the regulations that prescribe specific roles for specific staff.

The provisions of 216-RICR-40-05-22 (which require certain training for Nursing Assistants and Medication Aides), and the provisions of 216-RICR-40-10-1 (which require certain training for Resident Attendants) should be temporarily suspended in order to expand the available workforce. Please authorize nursing facilities to use any individual to provide personal care for residents, so long as the facility has provided training as necessary, deems the individual competent to provide those services, and the individual works under the supervision of a RN or LPN.

- 2. PPE is still needed. We appreciate the state's extraordinary efforts in this regard. It appears that most facilities have enough PPE for today, but not for tomorrow. Once COVID-19 is in a facility, moreover, it will quickly use up its current stock. We have two proposals in this area.
 - We understand that you are distributing masks, gloves, gowns, face shields, etc., as they are acquired. We ask that you also keep a central stockpile of PPE ready to deploy when a facility has an outbreak.
 - O We also ask if the state could serve an administrative role in helping facilities share supplies such as masks and gowns, when a facility is struck with an outbreak. Some Rhode Island nursing facilities are affiliated with chains that can do the same thing, but many are independently owned. It would be helpful if the state could administer (or help us to administer) such a program.

- 3. We request the CVS tests for quicker results for nursing home workers and residents. We understand the testing being performed through CVS at Twin River has a rapid turnaround time. This is a critical need in the nursing home population both for our residents and our staff. If we could tell swiftly when a resident has been infected with COVID-19 it would greatly enhance infection control by allowing immediate isolation and implementation of COVID-19 staffing patterns. Moreover, if we could distinguish immediately upon entry whether a staff member with the sniffles has COVID-19 or simply seasonal allergies it would aid in alleviating the staffing problem. We realize that the necessary tests and equipment are not available on a widespread basis, but certainly nursing homes should be a priority as that technology develops. We request nursing homes get access to those tests and that the National Guard administer the rapid tests in the homes.
- 4. We need a solid plan for COVID-19 residents and hospital patients being discharged.

We understand you are working on alternate sites for those recovering from COVID-19 coming out of the hospitals. The Convention Center, Lowe's in North Kingstown and the old Citizens Bank in Cranston have been mentioned. We understand these take time to set up, but with the crisis looming these facilities are needed quickly.

We also know DOH is working to set up separate COVID-19 nursing homes. Our members want to utilize the most efficient and effective methods to ensure COVID-19 does not spread within nursing facilities; however, we have great concerns about moving frail nursing home residents from our homes into other facilities. We would appreciate a thorough discussion with RIHCA and other nursing home groups as to how this will work.

Whatever the solution, we need to decide and implement it as quickly as possible due to the rapid spread of this virus.

As always, we appreciate your attention and answers to these concerns. Thank you.

Sincerely,

Scott Fraser

President and CEO

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rifica Rhode Island Health Care Association

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April 15, 2020

Dear Representative/ Senator:

We hope you and your family are staying safe and healthy. As COVID-19 continues its path in Rhode Island and across the U.S., we want to keep you informed as to how our state's nursing homes are coping with the challenges and changes resulting from the COVID-19 crisis. We also want you to be educated as to the areas where we have requested assistance from the state.

I want to start by recognizing the true heroes in our nursing homes -- our workers who care for our residents 24 hours a day seven days a week. Many of these people are your constituents. Their hearts are with our frail elderly - many of whom are like family to them. Whether they are cleaning the buildings, serving food, or caring for the daily needs and medical concerns of our residents, their commitment to their work and to nursing home residents is inspiring.

During this unprecedented time, the changes in our nursing homes have been swift and constant. We are regularly keeping up with standards and regulations from CDC – the Centers for Disease Control — and the RI Department of Health. We are monitoring and testing workers and residents for COVID-19; quarantining and isolating potentially infected individuals; making staffing adjustments based on these needs; and cleaning our facilities around the clock as an important part of infection control.

In addition to our daily, heavy workload, we keep a constant search to find proper PPE and pursue the need for sufficient staffing. Please be assured we are doing all we can each and every day to keep our residents and workers safe.

We are working closely with the administration on issues of concern:

Every Nursing Home worker deserves \$1,000/week in additional pay: Hazard pay is important when people are asked to put themselves in potentially dangerous situations – in this case, facing a deadly virus while caring for our most vulnerable population. We thank the governor and federal delegation for supporting and advocating for pay for low wage workers. We emphasize, however, that this hazard pay should be immediate and cover every worker.

We need faster testing in nursing homes. Nursing homes presently wait 3-4 days before receiving a test result on a worker or resident. In these settings that house our most vulnerable population, we have been advocating for the 30 minute rapid response test be

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deployed by National Guard members into our homes. The immediate information these tests provide will be life-saving to our residents.

We need staffing solutions and have recommended strike teams be formed and available. We are facing a surge with this virus, and the shortage of staffing due to staff illness and fear has not yet been addressed. We have requested Strike Teams be created including National Guard members, retired workers and other available Rhode Islanders to help serve homes when dire needs arise. These teams will help us avoid evacuations. Massachusetts and Maryland are among the other states that have created such teams.

Experience shows that once COVID-19 gets into a nursing home, multiple residents will likely be infected. Twenty-five percent of staff will also likely be infected and unable to work. Another twenty percent of the staff will not show up for work, presumably out of fear of becoming infected themselves. We need teams that will answer these calls for assistance.

More funding is needed. Though the governor is providing a 10 percent boost in Medicaid funding from the recent FMAP increase, this is not nearly enough for our nursing homes. We need additional funds for expenses like overtime, cleaning, and PPE and the funding needs are here now.

We are on a constant quest for adequate PPE for our workers. Our homes are working non-stop to find PPE which has become from exponentially more expensive than usual. It has been and will continue to be an issue for our homes as the surge approaches. PPE is real protection for our workers and residents and truly adequate PPE saves lives.

We hope you will consider reaching out to your local nursing home administrator to hear how your local home is doing during this crisis. We all understand how important it is to keep you informed of recent happenings and requests.

Thank you for your support during this time.

Scott Fraser President & CEO RIHCA

rinca Rhode Island Health Care Association

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April 20, 2020

Dear Governor Raimondo and Dr. Alexander Scott:

On behalf of our members, thank you both for taking the time to speak to us on Friday afternoon regarding our concerns for the health and safety of our residents and workers. You have both been strong partners with the nursing homes during this crisis and we appreciate you listening to what we know are the wave of pressing problems facing our homes. Rhode Island's congregate care settings have been the hardest hit facilities — but if we act immediately, to put more safeguards in place and institute important and protective policies — we will be able to protect our residents and save many more lives from this virus.

1. Hazard pay for staff.

We have asked for hazard pay for every worker in a nursing home. You said on Friday that you heard us and you are working on an announcement for this coming week. We thank you for considering our workers who have been hit hard emotionally and physically by COVID-19, but are still coming to work each day. We also want to make clear that our request is to provide hazard pay funds to EVERY worker. This includes people on our maintenance team, laundry staff, dietary workers as well as our nurses and CNAs. Each is putting their well-being on the line to come to work and each plays an integral role in the proper and safe operation of our homes and the care of our residents.

2. Strike teams.

We have submitted a detailed proposal to you for strike teams. These teams, which are extremely necessary to our homes in moments of staffing emergencies (where staff does not come to work for reasons of illness, family matters or fear), should be at the ready to be deployed to one of our homes. Our proposal included 10 teams which would be made up of six individuals with varying skill levels who might be nurses, CNAs or have the ability to take on cleaning projects or to serve food. Our needs will be different depending on the home affected, but they are all critical needs. We want to be clear that calling a service or hiring others is not a feasible solution right now. We need these teams to be at the ready so they can assist at a moment's notice.

3. Testing.

Testing everyone and testing often is critical to keeping our homes safe. We understand you are moving to rapid testing, first to heavily COVID-19 penetrated homes, then to other homes. We are requesting mobile, rapid testing for *every* home be implemented expeditiously. Testing gives us the information we need to keep residents and workers safe — and healthy. Our environment is one where every resident is at a high risk of contracting this infection if exposed; therefore, leaving them untested is unsafe and creates an environment that uses large amounts of PPE. We also are not able to send workers to Twin River frequently, as many of our workers are not close

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to the testing site. With an overburdened staff, and a stress on our staffing resources, this option is not a good one for many of our homes.

4. Funding.

We received 10 percent in additional Medicaid funding, yet our request was 30 percent. We hope that you will provide the additional 20 percent as our COVID-19 related payments for overtime, supplies, additional cleaning and for PPE are significant. Many of our homes are struggling already due to UHIP problems and slow reimbursements, and the homes cannot continue to absorb these expenses. Also, the payment of the 10 percent will not be paid until May. In CT, for example, they began the increase immediately. Our request is for the additional 20 percent and for the money to be retroactive to March 15 and supplied as soon as possible.

5. We need adequate PPE and do not have access to it right now, despite a full court press. The shortage of Personal Protective Equipment (PPE) risks the health of our workers and residents.

We look forward to continuing our communication with your staff and please contact us with any questions.

Thank you, again.

Sincerely,

Scott Fraser
President and CEO

c: Hon. Jack Reed

Hon. Sheldon Whitehouse

Scotto Fraser

Hon. James Langevin

Hon, Davíd Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

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April 30, 2020

Dear Governor Raimondo and Director Alexander Scott:

We continue to update you each week regarding the status and needs of our nursing homes in Rhode Island. We appreciate your attentiveness to the Items we have put forward. We also thank you for publicly stating your support of our nursing homes and the diligence with which our members have been addressing this crisis. Our nursing homes in Rhode Island are the center of the majority of deaths happening around COVID-19 thus far, and we need your assistance quickly with a number of additional items. During this unprecedented time, serious concerns still remain in our homes. They are listed here:

1. As we have mentioned previously both in letters and on our calls, we need to be testing staff and residents in all of our homes, rapidly and frequently. Testing provides us with the knowledge of who has the virus and who does not. Because of the insidious nature of this virus, those who have it may be asymptomatic for days, and testing is much more critical than it would be with any other virus. We recommend that serial testing be implemented and that it occur every week (7-10 days) in every home with every person. In your daily briefing you have said that this is your intention. To date this program is not fully operational, yet it remains a necessary tool in limiting deaths in our homes.

Please know that without the knowledge of who is ill there is a ripple affect not only potentially causing the spread of the virus, but also on our PPE. We overuse PPE unnecessarily with residents when we are unsure of their health condition. We need to conserve PPE and testing helps us with this. We also ask that all nursing home tests be processed by the DOH labs. This provides faster results than other labs. Our nursing homes need these results quickly.

- 2. In terms of PPE, our homes are desperate for gowns. We have had one home running to another to drop off a small supply and are sharing as best we can. We need assistance in securing more gowns, first and foremost, and secondly, still need N95 masks as well as bootles and haircaps.
- 3. We need to be sure of accurate reporting around deaths and that this reporting of deaths is not focused only on nursing homes. We see that our nursing home deaths are listed at 78 percent of the state's fatalities, yet hospital deaths seem to be at approximately 35 percent. In addition, there have been deaths at group homes and in people's homes in RI. We have requested a meeting to discuss this with the Department of Health communications team.

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Our request is that these numbers not only be looked at to be sure they are clear and correct, but in addition, that our nursing homes not be made the focus of the number of fatalities. We believe this to be both an issue of fairness and of good public policy. It also will go a long way to calm the fears of family members and staff.

We thank Dr. Alexander-Scott for clarifying what an associated death means in the news conference Tuesday. We believe a written document providing this fact is important to communicating with the media and the public. At this stressful time for families, when they are not able to see their loved ones, they must have complete trust in what our nursing homes tell them. We are doing our part to communicate to them and the accuracy of the numbers from the state is of paramount importance.

- 4. We appreciate you stating in your news conference on Wednesday, Governor, that the nursing homes are the top priority for federal funds. We provided a detailed and updated funding report showing our immediate needs to your Medicaid team on Monday. Our homes are operating at the financial edge and funding is crucial, as you know.
- 5. Lastly, next week is Mother's Day. It is a time when all kinds of gifts and flowers come into our homes. As with Easter, we would appreciate if you could provide the public with information as to the limit of cards only, well in advance of this holiday. People order flowers and gifts early in the week before, so timing is of key concern. A strong message about protecting our residents would be appreciated.

Families should also know that we celebrate Mother's Day inside our homes with our residents. We know this is an important and wonderful day for all moms and grandmothers and we make it a fun day with lots of smiles. Please know we will be sure they enjoy their day in our homes!

Thank you for your assistance on these matters. As always, my members and I are available as a resource on these issues.

Thank you for your partnership.

Sincerely,

Scott Fraser
President and CEO

c: Hon. Jack Reed

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

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June 4, 2020

Dear Governor Raimondo and Dr. Alexander-Scott:

First, thank you for your response to the issues around equity both in our health care system and in our state as a whole. Governor, your messages around the protests are important to bringing our communities together - equitably. I speak for all of our members, when I say we appreciate your leadership as business owners and members of the community.

As you both know, the nursing homes struggle with health equity, as well. With two-thirds of our residents on Medicaid, we serve the most vulnerable both health-wise and economically. In addition, our homes are employers of a large, diverse population of workers. Our homes, our workers and our residents continue to be our focus during this COVID-19 crisis, and as such, our issues and concerns continue, as well. We thank you for your consideration of our needs thus far and the partnership of your staff members on a number of issues. Still, there are issues we'd like to bring to the forefront, or continue to mention, at this time:

1. Governor, your statements today on the importance of ensuring an efficient and viable healthcare system without duplication of services, encouraged us to bring to your attention an immediate issue: the application under consideration for a new rehabilitation facility in Johnston. The approval of the application by Encompass threatens the financial stability of our homes, duplicates existing services and destabilizes our hospital system. The approval of this application would be in direct contrast to your stated goals.

The RIDOH hired the Faulkner Consulting Group to assess the Encompass Certificate of Need proposal. Their report finds that the new facility would have an adverse financial impact on the system, threaten the viability of the state's existing rehabilitation facilities, and could impact local access to inpatient rehabilitation care and the hundreds of jobs existing at these facilities. Their report concludes: "Encompass has not demonstrated that there is a substantial or obvious community need for a new facility."

Despite this clear report, and the many hours of testimony in opposition to this proposal, the Health Services Council voted 3-2 in favor of the proposal. This is a mere three votes in favor (less than a third of an 11-member board) on an issue of paramount importance to our healthcare system.

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Protecting the viability of our homes and the jobs of thousands of workers is critical to ensuring the proper spectrum of healthcare options needed in our community; Encompass' application threatens both.

Attached are the following documents: 1) the Faulkner Report and 2) the most recent letter to Director of the Department of Health in opposition of this application.

2. Rapid results testing is needed in our homes. Our nursing homes are relieved testing is occurring for residents and staff on a regular basis. Thank you for answering our call for this critical component to our overall COVID-19 protocol.

We have experienced some problems with testing that include incorrect results and long wait times for test results to be returned. As a result, we ask that rapid testing be secured for our homes. This means supplying machines that are easily usable onsite either by the National Guard or our staff and could possibly be shared within our network.

- 3. Numbers in the nursing homes. The governor recently noted that we are doing better than our neighboring states. This is backed by information from the RIDOH that examined the death rate per 100 beds. We ask that you continue to promote this message. Following is some additional information which backs you up on this:
 - We have implemented many tools to help nursing homes and that is why only eight percent of the population of 7,500 nursing home residents have died (many of whom were already in frail health.) This means 92 percent of all people in nursing homes have either not had or did not succumb to this virus.
 - In addition, there is a possible maximum of 2,459 confirmed cumulative cases in long term care settings. If only 600 people have passed (a number encompassing all long-term care settings), this means conservatively on average, 75 percent of those who contracted COVID -19 have recovered.
- 4. PPE is still a struggle. We are still looking for gowns and the preferred N95 masks will be needed in the future. As you said in your media event Tuesday, it is important for nursing home workers to properly use PPE; yet, we need a stockpile of it to be able to continue our high level of infection control. COVID-19 is a long-term issue and efforts to procure PPE remain time consuming and expensive.

Thank you for your continued leadership during this still difficult time.

Sincerely,

Scott Fraser

President and CEO

Rhode Island Health Care Association

c. Hon. Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

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July 14, 2020

Dear Governor Raimondo and Dr. Alexander-Scott.

This letter comes to bring to your attention a very serious and immediate problem facing nursing homes in Rhode Island today—delays in getting COVID-19 test results. I am hearing from many of our homes that it is taking at least seven days—and in some cases longer—to get results back from the lab. This is not only unacceptable, it puts the health of our residents and staff in imminent danger.

Over the weekend, one home learned, after a seven day wait, that six staff members tested positive. These staff had been working and interacting with residents and other staff during this time. This same home was still waiting more than a week for the results of 30 more employees.

These are not isolated incidents. The Rhode Island Health Care Association is very concerned that these delays will lead to a spike in positive cases. Worse, it could lead to the needless illness and potential deaths, of residents and staff alike.

As we have asked for in previous letters, and on phone calls with DOH staff, we need a rapid turnaround to obtain test results-48 hours at most. We need nursing homes, both residents and staff to be made a priority. I cannot stress this enough. RIHCA suggests that the state of Rhode Island dedicate testing at its lab exclusively for nursing home residents and staff. If more hours or expansion of the facility are needed, this is still better than waiting more than a week for results.

In addition, due to the findings of staff testing positive, many nursing homes in the state have had to suspend visitation programs in order to protect the health of our residents, staff and families.

Our state has been lauded as a leader in testing and in working to protect all Rhode Islanders from this virus. We are at a tipping point right now that could turn things in the opposite direction. Without an immediate priority given to testing turnaround for long term care, I fear our state will join others around the nation in seeing COVID rates increase.

Please help us in our efforts to protect the health and safety of every one of our residents and staff.

Sincerely,

Scott Fraser

President and CEO

c. Hon. Jack Reed

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August 27, 2020

Dear Governor Raimondo and Dr. Alexander Scott,

On a recent all-provider call, members of the Department of Health talked about the problem of nursing home staff working at multiple homes, and thus increasing the potential for community spread of COVID-19. Dr. McDonald stated that RIDOH is looking at "emergency regulations" to prevent staff from working in multiple long-term care settings. This idea was also discussed on a subsequent small group call with members of RIDOH, RIHCA, Leading Age and RIALA.

This letter comes today to strongly urge you <u>not</u> to impose such regulations. Doing so would only increase staffing problems being experienced by nursing homes and long-term care facilities in Rhode Island.

Due to low Medicaid reimbursement, our homes have not been able to pay workers what they deserve. This results in some employees having to work in multiple locations to make ends meet. Forcing an employee to pick and choose only one facility, would create shortages for any other home where they may work. It also would result in economic hardships for the individual staff member.

They key to stopping community spread is regular, ongoing testing. Response times are getting better, but it is imperative that test results for employees are returned in 48 hours or less. This way if a staff member tests positive, appropriate action can be taken immediately to protect their health and the health of those they work with and care for. Without this regular testing, and rapid results, the danger of an asymptomatic employee unintentionally spreading the virus continues.

In addition, how would such an order affect other professionals who work in multiple homes on a regular basis? This would impact physicians, therapists, lab technicians, ambulance personnel, state surveyors and others who interact with and treat multiple residents in multiple homes on a daily basis.

Our nursing homes continue to do all they can to protect residents and staff alike. Recently, the number of new COVID-19 cases in our homes is down. This has been a very difficult year for nursing homes to keep an adequate amount of staff and to keep them healthy. Please do not create additional challenges as we care for our most frail elderly residents, by placing limits on staff who choose to work at multiple facilities. That is not the answer and will result in additional problems for both staff and nursing homes.

Sincerely,

Scott Fraser

President and CEO

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September 9, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

The Rhode Island Health Care Association (RIHCA) writes to you today to express several concerns.

First, is the change in testing policy before a patient is released from the hospital to a nursing home. Recent guidance from the RI Department of Health no longer requires a patient to have two negative COVID tests before being released to a nursing home. This sets a dangerous precedent and will lead to the increased spread of the virus among our most vulnerable population. It has been stated on our weekly all-provider calls that the Department of Health is not aware of transmission of the COVID-19 virus from hospital patients who are discharged to nursing homes. However, RIHCA members are aware of at least three occasions in which a patient was discharged from a hospital, and while being quarantined at one of our facilities, tested positive for COVID-19. We ask that the state return to the previous standard of two negative tests before discharge.

We are also concerned that our Medicald reimbursement is not enough to keep our homes operating. Already, due to state regulations for isolation and quarantine, the number of available beds has been reduced by approximately 25%. At the end of July, the average census of a RIHCA-member home was 70%. This is down from almost 90% earlier this year. Because of the state-required bed reduction in homes, and our drop in census, additional funding is needed just to help our homes stay in operation. Yes, several rounds of federal funding have been received. This money has gone to cover the expenses of staffing, PPE and other COVID-related expenses. Our concern is that, going forward, our homes will not have enough money to continue to operate with the reduction in available beds and vastly reduced census. We are asking for additional CARES Act funding be made available, without conditions, to keep our homes in operation.

The last concern has to do with staffing. Our homes continue to struggle to fill open staff positions. Conservatively, our membership has more than 700 open positions. With increased Medicaid funding, we would be able to offer more attractive employment packages to present and prospective employees. We have held a conversation with the Department of Labor and Training. We know there are hundreds of nurses and nursing assistants collecting unemployment. We have jobs ready and waiting for these individuals. We ask for your help in connecting those who need work to our homes. DLT has offered to help get the word out about our open positions, and offer child-care support. We are asking for a more direct path to steer candidates off unemployment and into a meaningful work opportunity.

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Thank you for your consideration.

Sincerely,

Scott Fraser President and CEO

c. Hon. Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

Hon. Seth Magaziner

Hon. Peter Neronha

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September 16, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

Our members are concerned that outside workers who regularly come into our nursing homes may not all be tested regularly. Like the testing of nursing home and hospital workers, the testing of these critical front-line workers including nursing agency staff, ambulance workers and hospice agency employees, lab technicians and others is integral to keeping our residents safe. We ask you and the Rhode Island Department of Health to require all such companies who work in and with Rhode Island's nursing homes, to require regular testing of employees

Nursing home staff are doing all they can to ensure that COVID-19 is kept out of our facilities. This type of vigilance is a team effort involving staff, administrators and testing agencies. Our staff is tested on a regular basis—on average, once every week—and this testing has been a lifesaver in our facilities in the last few weeks. Knowing who does and does not have the virus allows us to isolate quickly and keep residents safe.

The Department of Health has been diligent in keeping our homes closed to outside visitors to protect our frail elderly. Yet, if there are outside workers coming into our homes, who remain untested, this lack of action completely undoes all of the care and caution being taken by our homes to fight introduction of the virus.

This matter is of immediate concern to our members. Please confirm with us that you will put proactive protocols for weekly testing out to these employers and employees who provide essential services inside our homes.

Thank you,

Scott Fraser

President and CEO

c. Hon. Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

Hon. Seth Magaziner

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October 13, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

The State of Rhode Island is asking for a 1% increase in Medicald rates retroactive to October 1 of this year. This is not enough to meet the rapidly escalating costs our homes face every day due to the ongoing battle against COVID-19.

In addition, the increase takes effect on the same day that the minimum wage increased 9.5% to \$11.50 per hour. This means an increase to not only our entry level staffers, but most homes also feel obligated to increase the wages of those making above minimum wage. Make no mistake, we would love to pay our staff more. In order to do so, it is essential we have adequate Medicaid funding. This year the Medicaid Inflation index was set by the State Budget Office at 3%. This is the increase our members should be receiving on October 1.

For many years the Medicald rates for nursing homes have been cut below the legally mandated inflation index. Now is the time to increase rates, not cut them. Our members have faced more challenges in 2020 than ever before. These challenges continue with a dramatically decreased census in most homes (as noted in our letter of September 9,) fewer rooms available due to quarantining needs, and escalating PPE costs.

Our homes cannot continue to operate with these increasing costs and decreasing reimbursement and the drop in number of residents.

RIHCA also continues our call for testing of essential vendors who come in and out of our homes. This includes ambulance personnel, hospice workers, x-ray and lab technicians and nursing agencies to name a few. In order to keep COVID at bay, it is imperative that these vendors are required to go through the same testing protocol as our staffers. In our letter of September 16, we asked for confirmation that such guidelines would be put in place. We still are waiting for an answer.

Please respond at your earliest convenience.

Sincerely,

Scott Fraser
President and CEO

c. Hon, Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

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Hon. Nellie Gorbea Hon. Seth Magaziner Hon. Peter Neronha Hon. Nicholas Mattiello Hon. Dominick Ruggerio

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October 27, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

With the rapidly increasing numbers of positive COVID-19 cases in the state, the Rhode Island Health Care Association has several concerns:

Testing—The lack of testing of health care workers from outside our nursing homes is a serious
issue for the safety of our residents and staff. Ancillary workers who come into our homes, such
as lab and x-ray technicians, hospice workers, ambulance workers and the like have no testing
requirement.

Some of the state's emergency regulations imply that this is the responsibility of each skilled nursing facility. We have neither the funding nor the capability to coordinate such an effort.

--It is also our understanding that there is no similar testing requirement for hospital workers. We have become aware of several outbreaks at local hospitals, through staff members, yet our member homes are not made aware of these outbreaks by the Department of Health. In some cases, the only way we find out is if a new resident tests positive after being transferred in from a hospital.

We are required to test our employees every 7-10 days and we ask that similar requirements be placed on these ancillary workers, their employers, and hospital workers. Without such mandates, we fear increased spread into our homes.

- 2. Testing costs—As we have stated in the past, we are concerned about the additional testing costs which will be passed along to our members. While covered by health insurance, we are asking that these extra costs, not be passed on to our members in the form of higher insurance premiums. These costs should either be covered by the state or the insurance companies. We need to be clear that we do not have funding to cover these increased insurance premiums.
- 3. Visitation—With the upcoming holidays, we have already made several requests to RIDOH to have clear visitation guidelines set up so they can be communicated to families well in advance. We have asked to be included in the formulation of these guidelines, as we have first-hand knowledge of what may or may not be successful. To date, we have not been included in any discussions, yet we have heard there is guidance coming shortly. We can't emphasize enough that community spread is directly related to spread in nursing homes. We urge you to be a partner with us in setting the tone for families and friends who wish to visit during the holidays. We hope to be as accommodating as possible, but it also requires smart and safe policies. Including a nursing home representative in the creation of these plans would help your team understand the challenges our members face in balancing the safety of our residents while allowing family members to connect with loved ones.

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We all know the disastrous effects COVID-19 had on our nursing homes and our residents in the spring. We fear a repeat of this is coming in the next few weeks and months if steps aren't taken to provide testing for all and to protect the vulnerable residents we care for each day.

We request a meeting with you this week as we have not spoken directly since the spring and the issues we continue to face as the caregivers of our most vulnerable population continue to be of the utmost concern.

Sincerely,

Scott Fraser

President and CEO

Hon. Jack Reed

Hon. Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon, Dan McKee

Hon. Nellie Gorbea

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November 5, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

The Rhode Island Health Care Association continues to be concerned about the increase in community spread of COVID-19 in Rhode Island.

Some of our immediate concerns include:

--Hospital outbreaks—We are hearing of more and more outbreaks in local hospitals. As key health care facilities accepting patients from hospitals, nursing homes must be notified about these outbreaks. Presently, we are not. We ask that there be a procedure put in place for notifying nursing homes when there has been a hospital outbreak. Now we only hear about these informally, via word of mouth. What are the protocols for testing hospital employees, or quarantining them if they test positive? We ask the state require a policy of screening hospital employees before they begin work, just as is done in nursing homes.

With these outbreaks on the increase, there also *must* be a policy of testing patients before they are transferred to nursing homes. Otherwise, the result is an increase in the spread into nursing homes.

--Testing of ancillary workers—We asked this question in previous letters dated September 16, October 13 and October 27. While the Department of Health seems to indicate this is the responsibility of nursing homes, this is just not possible. This must be the responsibility of their employer as some of these workers travel to four or five homes in a day. Which home should test them and how frequently? This is just one more costly burden being placed on already stressed nursing homes. We are responsible for testing our employees. The same should be true for these workers.

--Improved communication—The Rhode Island Health Care Association requests the DOH and the Governor's office re-establish regular contact with our organization. Early in the pandemic, we had a weekly call with top staffers from each of your offices. While the calls still take place, we need decision makers to get back on these calls to address the issues at hand.

We are concerned with the lack of communication and disappointed to have received no response to our request for a meeting in our letter of 10/27. We would not leave you without a response if you had made the same request of us. We ask that you extend the same courtesy.

As of November, the weekly provider call for nursing homes and assisted living homes is moving from weekly to once every two weeks. This is moving in the wrong direction. As cases rise, there is a need for more frequent communication, not less. With the rapidly increasing number of positive COVID cases, the advent of flu season and colder weather, it is imperative that we keep an open dialogue on these and other issues which will come up. We request the weekly provider calls be kept in place.

We respectfully ask for an expeditious response to the issues listed in this letter.

Setting the Pace in Nursing Home Care

A non-profit organization of proprietary and non-proprietary long term health care facilities dedicated to improving health care of the convalescent and chronically ill of all ages. An equal opportunity employer.

Sincerely,

Scott Fraser President and CEO

Hon. Jack Reed

Hon. Sheldon Whitehouse

Scott Fraser

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

Hon. Seth Magaziner

Hon. Peter Neronha

Hon. Nicholas Mattiello

Hon. Dominick Ruggerio

rifica Rhode Island Health Care Association

57 KILVERT STREET, SUITE 200, WARWICK, RI 02886-1009 (401) 732-9333 FAX (401) 739-3103 www.rihca.com

November 23, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

As the number of COVID positive Rhode Islanders continues to rise so do the number of positive cases in Rhode Island nursing homes. At your news conference on November 12, you stated that a hospital patient should have "at least" two negative COVID tests before being transferred to a nursing home. We agree. This is something we long advocated for in the spring and then protested against when the Department of Health rolled this back to one test in late August.

In practice, two tests are <u>not</u> happening prior to release and we are seeing numbers rise in our homes. Many of these cases are coming from hospitals. In a provider call on November 19, Dr. McDonald of DOH stated that this is something that should be negotiated between hospitals and nursing homes. We completely disagree.

Another concern is that, to our knowledge, hospital staff in Rhode Island are not routinely tested. How can this be? Nursing homes test our staff at least once a week. Yet, when a resident goes to a hospital in Rhode Island, there is no way of knowing if the hospital staffer treating them is positive for COVID-19. We have seen multiple cases recently in which COVID is introduced into a nursing home by someone recently released from a hospital. Even though we place that person in isolation and quarantine, it still increases the opportunity for the virus to spread in a facility.

We are asking you to implement your stated plan for two negative COVID tests prior to hospital discharge. We are also asking you and the Department of Health to require regular testing of all hospital staff to further prevent the spread of COVID-19 in Rhode Island.

Sincerely,

Scott Fraser

President and CEO

c. Hon. Jack Reed

Hon. Sheldon Whitehouse

Scatt Fraser

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellle Gorbea

Hon. Seth Magaziner

Hon, Peter Neronha

Setting the Pace in Nursing Home Care

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Hon. Nicholas Mattiello Hon. Dominick Ruggerio

Rhode Island Health Care Association

57 KILVERT STREET, SUITE 200, WARWICK, RI 02886-1009 (401) 732-9333 FAX (401) 739-3103 www.rihca.com

December 1, 2020

Dear Governor Raimondo and Dr. Alexander-Scott,

Rhode Island is closer and closer to receiving a COVID-19 vaccine. You and others have stated that health care workers will be at the top of the list to receive the vaccine when it arrives. On a national call yesterday, a CDC representative stated that it is their recommendation for nursing home staff and residents to be vaccinated in the first round.

Still, I realize individual states can make their own choices and the final decision is in your hands. You are certainly well aware of the vicious path COVID-19 has taken through our nursing homes in Rhode Island.

Today's letter is brief. The Rhode Island Health Care Association is urging you to continue to make nursing home staff and residents the first priority for receiving a vaccine. This will go a long way to saving lives of both our residents and dedicated workers and to curbing the spread in our nursing homes as well as the community. To do otherwise would cost untold lives and cause further hardship on an already strained long-term care system in our state.

Thank you.

Sincerely.

President and CEO

. Hon. Jack Reed

Hon, Sheldon Whitehouse

Hon. James Langevin

Hon. David Cicilline

Hon. Dan McKee

Hon. Nellie Gorbea

Hon. Seth Magaziner

Hon. Peter Neronha

Hon. Nicholas Mattiello

Hon. Dominick Ruggerio

Setting the Pace in Nursing Home Care A non-profit organization of proprietary and non-proprietary long term health care facilities dedicated to improving health care of the convalescent and chronically ill of all ages. An equal opportunity employer,

Chapter 304 2012 — H 7580 SUBSTITUTE A Enacted 06/20/12

A N A C T RELATING TO HUMAN SERVICES - MEDICAL ASSISTANCE

<u>Introduced By:</u> Representatives Gallison, San Bento, Serpa, Silva, and Blazejewski <u>Date Introduced:</u> February 15, 2012

It is enacted by the General Assembly as follows:

SECTION 1. Section 40-8-19 of the General Laws in Chapter 40-8 entitled "Medical Assistance" is hereby amended to read as follows:

40-8-19. Rates of payment to nursing facilities. - (a) Rate reform.

- (1) The rates to be paid by the state to nursing facilities licensed pursuant to chapter 17 of title 23, and certified to participate in the Title XIX Medicaid program for services rendered to Medicaid-eligible residents, shall be reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in accordance with 42 U.S.C. section 1396a(a)(13). The department of executive office of health and human services shall promulgate or modify the principles of reimbursement for nursing facilities in effect as of July 1, 2011 to be consistent with the provisions of this section and Title XIX, 42 U.S.C. section 1396 et seq., of the Social Security Act.
- (2) The department of executive office of health and human services ("Executive Office") shall review the current methodology for providing Medicaid payments to nursing facilities, including other long-term care services providers, and is authorized to modify the principles of reimbursement to replace the current cost based methodology rates with rates based on a price based methodology to be paid to all facilities with recognition of the acuity of patients and the relative Medicaid occupancy, and to include the following elements to be developed by the executive office:
 - (i) A direct care rate adjusted for resident acuity:
 - (ii) An indirect care rate comprised of a base per diem for all facilities:
- (iii) A rearray of costs for all facilities every three (3) years beginning October, 2015, which may or may not result in automatic per diem revisions;
 - (iv) Application of a fair rental value system;
 - (v) Application of a pass-through system: and
- (vi) Adjustment of rates by the change in a recognized national nursing home inflation index to be applied on October 1st of each year, beginning October 1, 2012. Said inflation index shall be applied without regard for the transition factor in subsection (b)(2) below.
- (b) Transition to full implementation of rate reform. For no less than four (4) years after the initial application of the price-based methodology described in subdivision (a)(2) to payment rates, the department shall implement a transition plan to moderate the impact of the rate reform on individual nursing facilities. Said transition shall include the following components:

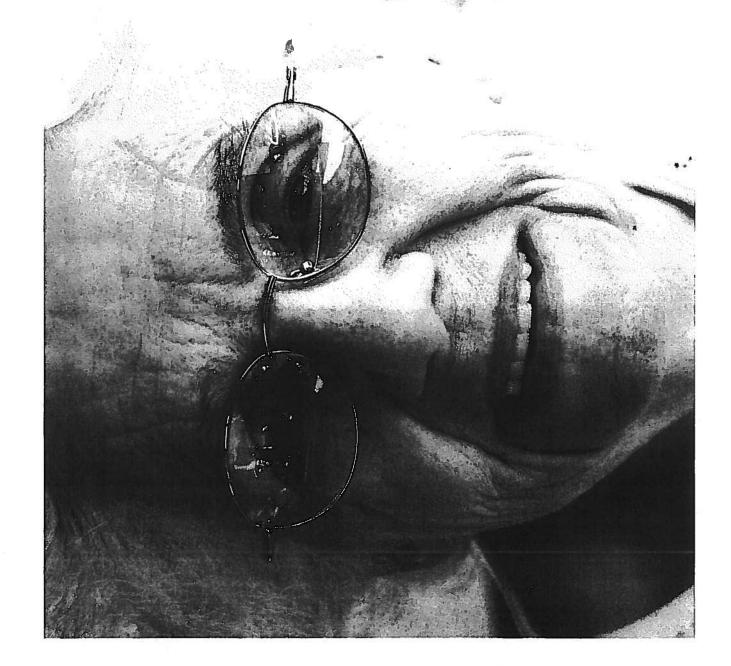
- (1) No nursing facility shall receive reimbursement for direct care costs that is less than the rate of reimbursement for direct care costs received under the methodology in effect at the time of passage of this act; and
- (2) No facility shall lose or gain more than five dollars (\$5.00) in its total per diem rate the first year of the transition. The adjustment to the per diem loss or gain may be phased out by twenty-five percent (25%) each year; and
- (3) The transition plan and/or period may be modified upon full implementation of facility per diem rate increases for quality of care related measures. Said modifications shall be submitted in a report to the general assembly at least six (6) months prior to implementation.
- (3) By no later than January 1, 2012, under the direction of the Secretary of Health and Human Services, the Department of Human Services shall modify the principles of reimbursement to include the acuity needs of patients and the relative Medicaid occupancy as a factor in determining the reimbursement rates to nursing facilities.
- (b) Phase I Implementation. The department shall file a state plan amendment with the U.S. Department of Health and Human Services on or before November 1, 2011 to modify the principles of reimbursement for nursing facilities, to be effective on January 1, 2012, or as soon thereafter as is authorized by an approved state plan amendment, to establish price based payment rates for nursing facilities, recognizing patient acuity and Medicaid occupancy.

SECTION 2. This act shall take effect upon passage.

LC01441/SUB A

REVERSE THE TREND

Stop Cuts to Nursing Home Care for RI's Frail Elderly



FILES Rhode Island Health Care Association \$7.5 million in state and federal matching funds, which would provide annual adjustments to meet the needs of our residents. budget each year has cut Medicaid despite a 2012 state law to The governor's FY20-21 budget once again calls for a cut of funding care for those who cannot afford it). The governor's elderly, 65 percent of whom are on Medicaid (the program result in a total reduction of \$50M this year alone.

This lack of funding is putting resident care at risk and causing a shortage of workers to meet the needs of a growing aging population. This trend must be reversed

Please reverse the negative trend and fund Medicaid as is required by law. Our residents and the tireless workers who deliver their care deserve it.

For more information, visit rihca.com



RIHCA.COM (F) @RIHEALTHCAREASSOCIATION

57 Kilvert Street Suite 200 **Warwick, RI 02886** RIHCA

REVERSE THE TREND

Stop Cuts to Nursing Care for RI's Frail Elderly

Years of Medicaid Cuts Leave Nursing Homes Underfunded

• Since 2012, the state cut Medicaid reimbursement by 14.6 percent, while nursing homes were expected to receive 24.6 in inflationary adjustments. Medicaid reimbursement has failed to keep up. Year after year, RI has neglected the 2012 RI law that provides for an inflationary adjustment in Medicaid reimbursement. This results in a loss of \$7.5 million in state and federal matching funds in FY 20-21, If nursing homes had received the statutory adjustment over the years, the total dollars would be \$50 million more in FY 20-21.

22,000 Frail Elderly Residents Need Your Attention

- The majority of nursing home residents (65 percent) are receiving Medicaid: these are the most frail of our elderly. Grandmothers and grandfathers, parents and neighbors - those individuals who have cared for us, raised us and served us - deserve to be cared for in this chapter of their lives. And yet, their basic right to care is being diminished with the swoop of a pen.
- These residents are not strong enough to be at home as they need care 24/7. Nursing homes offer cost-effective care for elderly residents at far less cost than hospital stays and much more cost-efficiently than home care due to round the clock resident needs. RI's elderly population is growing and access to skilled nursing care will be needed.



- Nursing home workers deserve to be paid adequately by the state. Some of the hardest workers in RI, they dedicate not only their time, but their hearts to providing quality care for those who need it most.
- A staffing crisis has ensued in this low unemployment economy. Those who may work as CNAs or dietary aides are choosing retail or other service jobs that pay more. RI must ensure workers know caring for our elderly is a valuable service held in high regard - this is shown through adequate Medicaid reimbursement.

Our Economy Feels the Impact:

 Medicaid funds have a significant impact on the dollars sent back into the RI economy. These funds deliver quality care to frail elderly residents, adequate wages for our tireless workers and bills from local vendors, among many other payments such as taxes. Our workers also help family members stay employed while they care for alling relatives, then contribute with taxes and purchasing in RI outside the workplace. The ripple effect of Medicaid returns millions of dollars into the RI economy.

WE URGE YOU TO REVERSE THE TREND

PROVIDE THE MEDICAID FUNDS OUR ELDERLY NEED









They cared for us. They raised us. They served us.

Now it's our turn to care for them.

We ask the RI General Assembly to fully fund Medicaid and comply with RI law.

Our 22,000 frail, elderly residents and our 10,000 workers deserve it.





Nursing Homes are in Financial Crisis

Nursing homes are in financial difficulty due to the loss of funding over nearly a decade, the pandemic and the resulting loss of census.

The union tries to justify passage of a 4.1 staffing hours mandate by claiming excessive profits in the nursing homes; specifically, that owners made \$241 million in 2017 & 2018. This is plainly untrue.

THE SEIU'S CLAIM IS FALSE AND MISLEADING. THE TRUTH IS NURSING HOMES LOST \$7.9 MILLION IN 2017 & 2018.

Below is the data for those years provided by the accounting firm Blum Shapiro.

Rhode Island Nursing Homes Summarized Data per 2017 & 2018 Medicaid BM-64 Cost Reports, as Filed with the RI Office of Health and Human Services (82 Nursing Homes)

For the Years 2017 & 2018

Total Expenses as Reported in the Medicaid Cost Report (1,623,987,079)

Total Expenses in Excess of Revenues as Reported \$ (7,991,177)

Disclaimer: the 2017 and 2018 information illustrated above has been summarized by blumshapire from the data included in the 2017 and 2018 Medicald cost reports, as filed with the State of Rhoda Island, Office of Health and Human Services. This information was obtained through a freedom of information request, blumshapire has not cartified or verified the accuracy of the data included in the 2017 and 2018 cost reports or the data litustrated above.

To get to the true profit/loss for the nursing homes, one must subtract all expenses from the revenues. Yet, the SEIU included **ONLY Medicaid expenses in their calculation**.

This means they left out millions in therapy, pharmacy, provider tax, maintenance and cleaning costs and Medicare expenses. These expenses are paid for by the nursing homes and to exclude them is simply cooking the books.

RIHCA.COM ## @RIHEALTHCAREASSOCIATION

Total Revenues as Reported in the Medicaid Cost Report



\$ 1,615,995,902

Dear Editor:

Below is a commentary from the RI Healthcare Association.

Thank you for your consideration.

Scott Fraser

July 1st

The Facts around COVID-19 and RI Nursing Homes

COVID-19 hasn't been easy for anyone, but it's been particularly hard on the nursing home community. This quiet and deadly virus targets the most frail elderly and RI ranks third in the nation in people over the age of 85. As a result, RI's nursing home population faced the pandemic from the start as the most vulnerable.

RI nursing homes had a firm foundation to stand on as COVID-19 approached as the top in quality in the U.S. The most recently released U.S. Government Accountability Office (GAO) report listed RI first in the nation for infection control and the 2019 American Health Senior Report ranked RI number two in quality. (The Providence Journal, June 8, "RI Nursing Homes Among U.S. Best.")

Yet, the quality rating could not stop this virus from entering. Initially, hospital patients were sent to nursing homes without being tested for COVID-19, despite calls for testing. This policy changed later, but these patients marked the first entrance of COVID-19 into RI's nursing homes. In addition, the slow implementation of testing for nursing home residents and workers and the asymptomatic nature of the virus left caregivers with little knowledge of whom to isolate. RI is in a better place with these concerns now, but they had a big impact.

Through rigorous infection control policies and visitation limits, RI nursing homes were able to slow the virus' spread. This is a credit to the quality of the homes and the commitment of the nursing home workers.

Thankfully, since the virus entered, thousands of dedicated nursing home workers continue to show up day in and day out to care for residents. The maintenance workers, CNAs, nurses, housekeepers, dietary aides, laundry staff and kitchen staff work together to manage infection control, clean constantly, feed residents and treat medical issues; all while connecting residents to their families through technology, celebrating birthdays and anniversaries, and simply making them laugh.

RI's nursing home workers are more than heroes. They are committed to their places of work and wholly dedicated to the residents they serve.

As of June 26, 73 percent of RI COVID-19 deaths have been "associated with" RI nursing homes. The percentage of deaths "associated with" nursing homes is relative to the total number of RI deaths (627 of 927), making the number appear high. Yet, this statistic compares to our neighbors with MA at 62 percent and CT at 73 percent.

The "associated with" label is used in RI regardless of actual location of death. It includes many who died at the hospital, but may have been a previous nursing home resident. (State percentages vary greatly as states like NY at 21 percent list deaths by location.) In addition, hospice patients who are already at life's end but test positive, are also marked as COVID-19 deaths.

In total, eight percent of the 7,500 RI nursing home residents have passed due to COVID-19 related illness. The virus has taken many who contributed greatly to their families, friends and communities, leaving much heartache.

Many have survived COVID-19. In fact, nearly three-quarters of the 2,745 who have contracted this virus in RI's nursing homes have recovered. Our homes are celebrating these recoveries week after week.

This crisis has challenged the best of us and nursing homes have certainly been at the front of the front lines. We are grateful for the commitment of RI's nursing home workers and the support of the many families who have endured a lack of visits and in some cases, the loss of a loved one.

We know this work is far from over. RI's nursing homes will continue to work with the state and federal government to be sure those who raised us, cared for us and fought for us are well taken care of in their later years.

Our nursing homes will continue to do our best for Rhode Island.

Scott Fraser is the President of the RI Healthcare Association, representing 64 nursing homes.

For Immediate Release: March 30, 2020

Contact: Scott Fraser 401.578.1426

Nursing Homes Need Immediate Help to Protect Thousands of Elderly Residents During COVID-19 Crisis: Testing of Hospital Admissions, Access to Workers and PPE Top the List

The Rhode Island Health Care Association (RIHCA) said today that COVID-19 is creating significant and immediate challenges to the operations of its 64 member nursing homes. Noting the first cases announced of COVID-19 in nursing homes is highly concerning, the association called on the state for assistance with enhanced pre-admission testing, access to additional workers, and PPE to meet the needs of the growing crisis.

"The needs of nursing homes deserve immediate attention, as our homes are caring for thousands of residents. Right now, we are struggling to secure the testing, workers and equipment we need to move through this pandemic," RIHCA President Scott Fraser said. "These first cases of COVID-19 in nursing homes are highly concerning. Governor Raimondo and Dr. Alexander Scott have provided leadership for many during this time of crisis. We have asked them as our leaders to assist in addressing our needs to keep our residents safe."

Hospital Admissions to Nursing Homes Must be Tested

Presently, hospital admissions to nursing homes are not tested for COVID 19. RIHCA has called on the Department of Health to test admissions before sending them to nursing facilities, as they are being inserted into a home with the most vulnerable population we have in Rhode Island.

"A test is a lifeline for our workers and residents," Fraser said. "Without testing, we are putting our entire nursing home population at risk. The governor had a policy to keep visitors out of the homes to ensure the safety of our residents — and that worked well. We believe this policy of not testing is in direct contrast to the good work we have done."

Ready Access to Workers is Critical to the Operations of Our Homes

Nursing homes are in need of a plan to access more workers at a moment's notice as staff is required around day and night to care for residents. RIHCA has requested the state provide access to National Guard medical workers or retired Medical workers to fill voids resulting from positive worker or resident tests, as homes are already stretched for workers.

-more-

RIHCA Release Page 2

To procure more workers, RIHCA has asked the state to seek a Section 1135 waiver to permit facilities to use

any individual as a nurse aide so long as the facility deems the individual competent to provide nursing and nursing related services, and the individual works under the supervision of a RN or LPN. In addition, they have requested CNAs in training be allowed to work for the homes and those who have not yet taken their final test to be extended beyond the 90 days previously allotted.

Fraser said, "Our state's nursing facilities are working around the clock to protect our residents from COVID 19, which poses a deadly threat to the frail elderly. Access to the National Guard or retired workers and quick answers to suggestions we have put forward for regulatory relief to get more able bodied workers into our facilities quickly is critical. Ready access to workers is obviously paramount to the operations of our homes."

Background: Although nursing homes have created crisis staffing plans for emergencies, the planning involved procuring healthcare workers from other agencies, facilities or from other states. These plans are not operational since workers are needed in every state across the country. Therefore, new ways of thinking must be employed to meet this need.

PPE is Needed to Protect Workers and Residents

To keep residents and workers safe, proper equipment, now known widely as PPE, is needed, in order for nursing homes to do their jobs safely and well. Although the governor has called for more provisions, the state is coping with an extreme shortfall and only limited quantities are available to nursing facilities.

"We understand the great need for PPE across the board, and we echo the governor's call for any donations or assistance in securing PPE. We encourage any local company that might have access even to small amounts of PPE, to drop it at your local nursing home. Nursing home workers are on the frontline of this fight. As this virus pervades our communities, PPE is going to be the life-saving resource for both our workers and our residents," Fraser said.

For Immediate Release:

April 8, 2020

Contact: Jennifer K. Bramley

Jenn.bramley@icloud.com

401.465.2213

RIHCA Calls on State for \$1,000/week Hazard Pay for Nursing Home Workers on the Frontlines of COVID-19 Crisis

Requests CVS Rapid Response Tests be Deployed in Nursing Facilities

The Rhode Island Health Care Association (RIHCA), the association representing 64 of RI's homes, today called upon the State of Rhode Island to provide an additional \$1,000 per week to every staff member working in nursing homes during the COVID-19 crisis. Federal funds could be used to fund such an effort.

"Our staff are crucial workers on the frontlines and they deserve additional pay during this unprecedented time," RIHCA President and CEO Scott Fraser said. "Nursing home workers are on the job every day, 24 hours a day seven days a week. We believe an additional \$1,000 payment is the least our state can do to assist workers who are stepping up each day to care for our frail elderly residents."

Nursing homes employ 10,000 people in the state of Rhode Island from maintenance and administrative staff and dietary aides to nurses and CNAs. These workers care for more than 22,000 residents each year.

"Every person who works in a nursing home is critical to protecting the health and safety of our residents," Fraser said.

Rapid Response Testing Needed in Nursing Homes

RIHCA also urged Governor Raimondo and the Department of Health to make the CVS rapid response tests available to nursing homes. Presently, residents and workers who are tested must wait days for results. A rapid response test in 30 minutes would help curb the spread of the virus as this knowledge would help homes immediately isolate residents and workers.

Rapid response testing would also allow nursing homes to distinguish immediately upon entry whether a staff member has COVID-19 or simply seasonal allergies. A negative result would

allow staff members to continue to do their jobs. RIHCA is requesting nursing homes receive access to those tests.

"Rapid response testing is a critical need in the nursing home population both for our residents and our staff," Fraser said. "The CVS rapid response test is an amazing tool that could save lives in nursing homes."

For Immediate Release:

April 9, 2020

Contact: Jenn Bramley

Jenn Bramley Communications

Jenn.Bramley@icloud.com

401.465-2213

STAFFING PLANS NEEDED NOW TO ENSURE NURSING HOME RESIDENTS HAVE THE CARE THEY NEED IN CRISIS SITUATION

RIHCA Members Suggest "Strike Teams" for Emergency Situations

The Rhode Island Health Care Association (RIHCA) called on Governor Gina Raimondo and Department of Health Director Nicole Alexander Scott to work hand in hand with all nursing homes to ensure critical staffing plans for emergency situations resulting from COVID-19. RICHA outlined the request in an April 8 letter to the two leaders.

"There is a staffing hole that needs to be filled – and that's a clear and strong plan for crisis situations such as staffing shortages or evacuations," RIHCA President and CEO Scott Fraser said. "Though the lifting of certain regulations has allowed for more CNAs to be trained quickly, there are no plans to cope with the sudden loss of staff and the increase in need due to COVID outbreaks in the homes. We have suggested the governor and DOH develop a number of strike teams to be at the ready to address these critical situations."

Strike teams have been set up in states like Massachusetts and Maryland to help with COVID-19 issues in nursing homes. These strike teams, made up of National Guard, retired and reactivated healthcare workers and those willing to provide maintenance and other needed assistance would be on call to step into action and provide emergency care, supplies and equipment to assist overburdened nursing homes. The governor's RI Responds program may be able to supply workers for these teams.

"We have been talking about staffing concerns for weeks, yet the crisis plan is not yet in place to address emergency staffing needs. Ready strike teams are a smart way to address a significant problem," Fraser said.

Strike Team Details

Nursing homes have critical staffing plans for emergency situations; however, these plans which include accessing health care and other workers from local nursing homes and health care facilities/hospitals or out of state health care facilities, are not applicable in these unprecedented times.

For nursing homes, such a Strike Team would include RNs, LPNs, and CNAs for patient care. (Unlike hospitals, nursing homes do not have an urgent need for physicians.) In addition, nursing homes provide total care to their residents — this includes meals, laundry, and cleaning in

addition to nursing care. They are just as likely to lose housekeeping and kitchen staff as they are nursing staff. In the current emergency, these jobs would not require extensive training – anyone willing to do so could help out in the kitchen, or clean tables, beds and floors. For these roles, no health care credentials or specialized training would be required.

"Every task conducted in a nursing home is crucial to the health and safety of our residents. Anyone from an average Rhode Islander, to a member of the National Guard to a CNA, could serve on these teams," Fraser said. "The issue is, a staffing crisis will not come with a 48-hour notice. It will happen immediately and with great impact. For this, we need the Department of Health and the Governor's office to help ready these teams now."

RIHCA ALSO REQUESTS WAIVERS TO UTILIZE PRESENT STAFF MORE EFFICIENTLY

In addition, RIHCA has asked the Department of Health and Governor Raimondo to provide certain waivers to allow nursing homes to make full use of the staff working today. Release from regulatory constraints would provide the ability to use all staff, for all tasks.

"Our present staff would be a huge asset in this crisis if we were granted regulatory relief to utilize them as needed. For example, activity aides and dietary aides are familiar with residents, and understand how to work with the frail elderly. In this crisis they could help with basic care, if not for the regulations that prescribe specific roles for specific staff," Fraser said.

For Immediate Release:

April 24, 2020

Contact: Jenn Bramley

Jenn Bramley Communications

401.465.2213

Jenn.bramley@icloud.com

RI Nursing Homes Workers Receive Hazard Pay and State Forms Strike Teams to Assist with Staffing Needs:

Thank you, Governor, for Listening to Our Call

Statement from RIHCA President and CEO Scott Fraser.

"Governor Gina Raimondo today announced she would provide forgivable loans to nursing homes to provide hazard pay to a number of our dedicated workers. RIHCA communicated with the governor in recent weeks to let her know we believed monetary recognition for their work was necessary and well-deserved. Governor Raimondo said on our call that she heard us. We thank Governor Raimondo for stepping in for one group of our workers who keep stepping up.

"In the coming days and weeks, we will continue to support our federal delegation's advocacy to provide hazard pay for every nursing home worker, as each member of our staff has been working tirelessly for the benefit of our residents and our staff.

Furthermore, we thank the governor for helping to assist our nursing homes with staffing needs when critical shortages arise. We have advocated for strike teams so when our homes face staffing shortages due to workers being out ill, for example, we have additional staff available immediately to fill gaps in the areas of the operation that need it most. Immediate access to staff will prevent drastic measures like evacuations of residents to other facilities.

"During this unprecedented time, we must employ unprecedented measures to ensure the safety of our residents. Strike teams are one of these measures. We look forward to working together with the governor and the Department of Health on the formation of these teams to best protect our residents.

"We appreciate our partnership with Governor Raimondo and the Department of Health to protect our most frail and vulnerable population."

-30-

For Immediate Release: Dec. 15, 2020

Contact: Jenn Bramley

401.465.2213; jenn.bramley@icloud.com

Governor's Push to Include Unfunded Staffing Mandates in Regulation will Drive Quality Down and Force a Number of Nursing Homes Out of Business

The RI Healthcare Association (RIHCA) today decried Governor Gina Raimondo's announcement the state would include a 3.8 hour unfunded staffing mandate into nursing home regulations. The immediate inclusion of the policy in regulation circumvents the legislative and hearing processes and implements a long-fought about policy on unfunded mandatory staffing hours by calling it an emergency provision under the pandemic. Nursing homes say it will put a number of homes out of business and decimate others, driving quality down.

The nursing homes have lobbied against unfunded mandatory staffing hours promoted by the Service Employees International Union (SEIU) for the entirety of 2020 showcasing the detrimental effect the mandate would have on the homes that care for the most frail in our community. The regulation announced today came without any dollars to support it; and at an estimated cost of \$75 million per year, according to an analysis by the American Health Care Association. Its implementation will reduce quality in the homes, not enhance it.

"No hearings, no public input and no transparency around this highly impactful policy," said RIHCA President and CEO Scott Fraser. "The governor's oft-mentioned claim she is laser-focused on nursing homes and the care of our elderly residents is misleading the public. We need Rhode Islanders to know, it's simply not the case.

"This action for mandatory hours seems to be a play for the support of the SEIU, not smart policy," he said.

Unfunded Staffing Mandates are Irresponsible during this Pandemic; National Numbers Disprove Claims mandates Correlate to Quality, especially when Unfunded

The 3.8 hour mandate would be the highest of all the states in the nation and is being put forward with zero dollars in funding. Staffing mandates are arbitrary across the 50 states with twenty-five states having no mandate and twenty-five implementing mandates averaging 2.5.

Massachusetts is considering adding a mandate into regulation after months of hearings and testimony. The proposed regulation is a 3.58 hour mandate; however it is also made possibly by \$140 million in funds. This is unlike RI's unfunded regulation.

Across the country, states with lower or no mandates such as CT and RI show up in the top 25 states for quality. Hawaii and Maine, with no mandates, are number one and two, the highest states in the

CMS' five star rating system. (RI was ranked number two in the country in quality by the American Senior Rankings Report in 2019). On the contrary, those with higher mandates have earned mixed reviews including Vermont who shows up at number 28 in quality.

Why is a staffing mandate with no accompanying funds a significant burden on nursing homes?

1. Deep and consistent cuts to Medicaid by the state since 2012 combined with the UHIP debacle have left many homes teetering on the edge.

Despite a 2012 law mandating Medicaid reimbursed be pald with an inflationary adjustment of approximately three percent a year, Medicaid has been cut each year since but one. In every year she has been in office, Governor Raimondo has proposed cutting Medicaid, including a \$7.5 million cut in the FY '20-21 budget — the budget that coincides with the worst health crisis in 100 years. The amount includes the loss of federal matching funds as well, creating a \$50 million deficit in this years' operational budgets alone. In total, hundreds of millions have been cut since 2012 and the nursing homes have been operating on fumes to care for the most vulnerable population in the state. Two-thirds of all residents are paid for by Medicaid.

To top all of this, the Governor's premier UHIP program which was supposed to make the healthcare system much easier for providers instead took millions from their operations. With payments for some Medicaid residents taking more than three years, and others being lost in the system, nursing homes have been left to care for residents with no funds to reimburse them.

"Adding \$75 million in mandatory spending annually to a health care system already suffering economically is irresponsible," said Fraser.

2. A state nursing home staffing crisis is already in play resulting in overworked staff who have been on-call since March.

As Governor Raimondo herself has found out in trying to staff the state's field hospitals — there are no healthcare staff to hire. This has been the plight of the nursing homes for some time. The cuts in Medicaid reimbursement year after year, have kept wages far too low for nursing home workers and left hundreds of nursing home jobs vacant.

Despite constant requests to the state for assistance, Medicaid continued to be cut and workers went elsewhere for jobs during the more robust economic times. This left the nursing homes already pushing for staff before the pandemic, and with the onset of the virus, still more workers have retired or stayed home for fear of the virus, or knowing they had a vulnerable family member at home.

This, on top of huge swarths of staff testing positive and needing to be kept out of work for weeks at a time, have left nursing homes in a place where they must get staff from agencies at an incredibly-high rate.

"Those continuing to work in the homes are overworked and underpaid. The governor continues to call them heroes, while doing nothing to support them. And a \$2/hour raise for two weeks in a pandemic, doesn't cut it," Fraser said. "Now she's putting their jobs on the line by implementing a policy that could close homes."

He continued, "The state itself is now offering astronomical wages (\$45 - \$105/hour for CNA's and nurses) for healthcare workers to work in the field hospitals, leaving nursing homes further in the dust with no way to compete for existing staff."

3. The high cost of the pandemic has placed the nursing homes at ground zero with little state support.

From the cost of PPE, to single rooms, isolation costs and cleaning and maintenance, these nursing homes have been paying out much and getting little back. The nursing homes have been heroically taking care of frail seniors at this difficult time.

The aforementioned reasons of high costs, no available additional staffing and little assistance have put the nursing homes in a precarious financial situation, making a \$75 million annual unfunded staffing mandate an impossible regulation to implement.

Dr. Alexander Scott herself, said the policy was not implementable.

In a letter dated July 13, 2020, written in support of the mandatory staffing legislation, she stated: "For minimum staffing standards to be successfully implemented, sufficient data must be available to establish meaningful metrics around minimum staffing, there must be a sustained pool of nursing staff (RNs, LPNs, CNAs) from which to hire, and appropriate financing must be made available to support them."

Fraser concluded, "In her July 13 letter supporting mandatory staffing hours, Dr. Alexander Scott herself put forward conditions that must be met in order for staffing standards to be implemented successfully: 'sufficient data,' 'a sustained pool of nursing staff,' and 'appropriate financing...to support them.' Not one of these conditions have been met," Fraser said. "Pushing a 3.8 unfunded mandatory staffing policy into regulation in the midst of a pandemic when nursing homes are already at a breaking point is irresponsible."



Pawtucket nursing home, R.I. Veterans Home confirm coronavirus cases

By <u>Jack Perry</u> Journal Staff Writer <u>jgregoryperry</u>

By <u>Brian Amaral</u> Journal Staff Writer

bamaral44

Posted Mar 30, 2020 at 9:18 AM Updated Mar 30, 2020 at 9:31 PM

Six residents at Oak Hill Center in Pawtucket and an employee at the Rhode Island Veterans Home in Bristol have tested positive for COVID-19.

A spokesman for Oak Hill said the residents were immediately placed into isolation once they felt sick.

Each was tested by the state Department of Health, confirming they had the virus, the spokesman said.

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Twenty-seven residents on the unit were also placed into protective isolation.

At a news conference Monday, Dr. Nicole Alexander-Scott said that that three nursing homes in Rhode Island have residents who have the virus. About 15 residents were affected in total, she said.

After Gov. Gina Raimondo announced the state's fourth death Monday, Alexander-Scott said that the person who died was a man in his 70s. He was not a nursing home resident, Alexander-Scott said, although she noted that nursing homes are "places of concern."

One of the facilities only has one case, so officials are not naming it in keeping with policy to only release the names of facilities when there are groups of cases, rather than individual cases.

In addition to Oak Hill, the Golden Crest Nursing Centre in North Providence also had multiple cases, a spokesman for the Department of Health said.

"We have worked closely with both facilities to get infection control measures in place," Joseph Wendelken said.

Golden Crest said in a statement that "several" residents and staff members tested positive over the weekend.

"The Centers for Disease Control and the Rhode Island Department of Health are both actively involved in helping us manage the situation," the statement said. "The source of the infection is under investigation."

The Rhode Island Health Care Association, which represents nursing homes around the state -including Golden Crest and Oak Hill -- said Monday that the state needed to test any person being
discharged from a hospital before they go to a nursing homes. It also wanted help with staffing and
more protective equipment for that staff.

Currently, residents who are admitted to nursing homes from hospitals are not being tested, the statement said.

"Without testing, we are putting our entire nursing home population at risk," association president Scott Fraser said in an email. "The governor had a policy to keep visitors out of the homes to ensure the safety of our residents – and that worked well. We believe this policy of not testing is in direct contrast to the good work we are doing."

The group also said it needed help from National Guard medical workers or retired medical professionals amid strains on staffing, and asked for waivers to let more people work as nurse aids, and for permission to let certified nursing assistants in training get to work without taking a final test.

"Access to the National Guard or retired workers and quick answers to suggestions we have put forward for regulatory relief to get more able bodied workers into our facilities quickly is critical," Fraser said.

Oak Hill said it's working "closely with the Rhode Island Department of Health and the CDC during this pandemic. The safety of our residents and staff are first and foremost our number one priority."

The Veterans Home, a nursing home for the state's aging veterans, said the employee was screened at work and sent home on March 25. The Veterans Home was notified on Saturday that the employee had tested positive.

"I can share that the employee is not a direct care provider," Executive Office of Health and Human Services spokesman David Levesque said.

Six people interacted with the employee. None of them have any symptoms, but if they do, they will have to quarantine, Levesque said. They must wear N95 masks at work in the meantime.

That policy is in line with Department of Health guidance for critical infrastructure staff, the department's director, Alexander-Scott said.

"We need the facility to have the healthcare workforce they need to function," Alexander-Scott said.
"In those cases, when they're not able to quarantine and monitor at home, we're working very closely with the healthcare facility to monitor the staff on a very regular, frequent basis, even during the shift while they are there."

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The attached report was created by the Center for Health Policy Evaluation in Long-Term Care which is part of the American Health Care Association.

The Rhode Island Health Care Association (RIHCA) emphasizes that although this report shows a range of numbers, we strongly believe the \$75 million figure is the most accurate, at a minimum. This represents the costs, in today's dollars, to achieve the 3.8 hour mandatory minimum staffing once homes reach pre-pandemic capacity. This also assumes labor costs will not go up. As the report states, more than 800 new employees will have to be hired. There already is a labor shortage at nursing homes in the state, and the cost to procure these additional employees could very well exceed the estimates in this report.

In addition, because of cuts in Medicaid funding since 2012, the present budget is \$50 million less than we should have received as mandated by state law.

Our homes continue to operate on razor thin margins. The Medicaid cuts, along with the exorbitant costs that would be imposed by this unfunded mandate, as outlined in this report, would result in tremendous damage to the nursing home industry in Rhode Island. These are subjects that should be addressed by the study commission created by the House of Representatives, not randomly implemented by regulation during a pandemic.

For all these reasons, the Rhode Island Health Care Association remains strongly opposed to any imposition of mandatory staffing hours.

Sincerely,

Scott Fraser

President and CEO

Scott Frances

Setting the Pace in Nursing Home Care

A non-profit organization of proprietary and non-proprietary long term health care facilities dedicated to improving health care of the convalencent and chronically ill of all ages. An equal opportunity employer.



Estimating the Cost of Staffing to 3.8 Hours Per Resident Day (HPRD) in Rhode Island Nursing Homes

Prepared by Terry Hawk, MS Kiran Sreenivas, MS David Gifford, MD MPH

Jan 4, 2021

Executive Summary

Minimum staffing levels are often proposed as a means to improve nursing home quality. Rhode Island is currently considering creating a minimum 3.8 hours per resident day (HPRD) for clinical nursing staff (RN, LPN and CNA). We characterized the facilities currently below this proposed HPRD minimum and calculated the number of additional staff and labor costs to achieve this proposed minimum. We used staffing levels collected by the Center for Medicare and Medicaid Census (CMS) from nursing home payroll data. To estimate the total labor costs, we used average labor costs, fringe benefits and payroll tax rates.

Based on Q2 2020 staffing data, 57 (73%) of nursing homes in Rhode Island are below the proposed 3.8 total nursing hours per resident day (HPRD) threshold. The analysis was repeated using pre-COVID Q4 2019 staffing data. Under pre-COVID conditions, the number of nursing homes below the 3.8 HPRD threshold rose to 72. A big driver for this increase was a higher census. The average Rhode Island nursing home census in Q4 2019 was 97 compared to 81 in Q2 2020. This is a 16.5% decline, which is larger than the national average decline of 14.2%.

On average, Rhode Island nursing homes below the 3.8 HPRD threshold are larger and have more Medicaid residents than the others. As for November 2020 Five-Star ratings, the nursing homes below 3.8 HPRD have on average lower overall, survey, and staffing ratings, but higher quality ratings.

For Rhode Island to implement a minimum staffing level of 3.8 HPRD, we estimate it will require between 361-816 FTEs and cost \$24.8-\$75.4 million dollars. The exact figure will depend on resident census. '

To get the current 57 nursing homes above the 3.8 total nursing HPRD, two scenarios were modeled. In Scenario #1 using only CNAs, 361 FTEs would be needed statewide at a total annual cost of \$24.8 million, including fringe benefits and payroll taxes. In the more expensive Scenario #2, 87 RNs, 57 LPN, and 216 CNA FTEs are needed at a total annual cost of \$33.3 million. This assumes census stays the same as it is now in Nov 2020, which is much lower than before the COVID pandemic.

Prior to COVID, the census was higher and more staff would be needed to meet the proposed 3.8 total nursing HPRD. In Scenario #1 using only CNAs, 816 FTEs would be needed at a total annual cost of \$56.1 million, including fringe benefits and payroll taxes. In the more expensive Scenario #2, 200 RNs, 121 LPN, and 495 CNA FTEs are needed at a total annual cost of \$75.4 million.

Finding individuals to fill the positions will be the most challenging aspect of implementing a minimum staffing threshold. Nursing homes must compete with hospitals and others for a workforce that was in shortage before COVID and has been dwindling since.

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Background

The relationship between nursing home staffing and resident quality is multifaceted. For staffing to have an impact on resident quality it requires both having the staff and ensuring they are trained properly and work well together to provide coordinated patient-centered care.

Policymakers and regulators have a challenging responsibility to incentivize and ensure both quantity and quality of staff through various means at various levels. This can range from investing in local nurse training programs to revoking individual nurse licenses when deliberate acts of patient abuse and neglect occur.

Among nursing homes, more attention has been paid to quantity, rather than quality, of staff in large part because it is easier to measure and monitor quantity. Measurements for staff quantity, such as hours per resident day or ratio of staff to residents, are gathered through employment data and publicly reported by the federal government. Measuring staff quality is more difficult. The most often used proxy for staff quality is staff retention and turnover. High retention and low turnover are theorized to reflect staff capable of performing their responsibilities and working well with each other because otherwise they would either be fired or seek employment elsewhere.

Both quantity and low turnover of nursing home staff have been found to be associated with higher resident quality. Castle, et al. found reducing nursing home turnover was associated with better performance on publicly reported quality metrics.¹ Castle estimates the rate of turnover for nursing home nurses to be around 40%.² There is no public reporting of nurse turnover, like there is for quantity of nurse staffing through Payroll-Based Journai (PBJ) required federally by the Centers for Medicaid and Medicare Services (CMS).³

With the current COVID pandemic, quantity of staffing has been a focus as COVID has had a devastating impact with over 100,000 deaths and approximately 40% of COVID deaths associated with long-term care facilities, which is a broader category than nursing homes alone and includes assisted living, independent living, among others.⁴

Several studies have found cases of COVID in the community to be the biggest driver of COVID cases from occurring in a nursing home, regardless of Five-Star Ratings or prior survey compliance.^{5, 6} Some of these studies have found an association between quantity of staffing and limiting spread.^{5, 7} It has been theorized that with higher staffing, nursing homes can better adhere to consistent assignments and reduce the risk of spreading cases between patients. Currently, there have been no studies on the quality of staffing and the relationship to preventing or minimizing COVID.

In an effort to mitigate COVID in nursing homes, some state policymakers and U.S. Congress are considering requiring minimum staffing levels. Minimum staffing levels currently vary by state across the country. Studies looking at the impact of minimum staffing on quality in general have shown mixed results with quality improving slightly

but also substitution of staffing occurring.⁸⁻¹⁰ Substitution examples include more CNAs in lieu of RNs or decreases in ancillary staff (e.g. housekeeping and dietary) when clinical staff levels are increased.

At both the state and federal level, efforts to increase minimum staffing levels face two implementation challenges. The first is having enough people to fill the positions. The second is the financial cost of employing more people.

The COVID pandemic has exacerbated a pre-existing health care workforce shortage. Health care staff from all sectors, including hospitals, nursing homes, and home health, are burnt out and worried about contracting COVID and spreading it to their families and loved ones. 11, 12 Regardless of how much a provider can pay them, some qualified people will turn down the job.

The costs associated to recruit and retain additional staff may be challenging for nursing homes. According to the latest data from MedPAC, the average total margin for nursing homes in the nation dropped to -0.3% in 2018. Because Medicare reimburses at a higher rate than Medicaid, many nursing homes struggle to find a mix of Medicare and Medicaid patient to make financial ends meet.

As policymakers continue to consider establishing or raising minimum staffing levels for nursing homes, it will be important for them to fully understand the two potential barriers of available staff and cost. For example, Rhode Island is considering requiring a minimum of 3.8 total nurse hours per resident day for nursing homes. ¹⁴ To provide a model for what policy makers should consider, this analysis looks to quantify what such a policy would mean in terms of staff needed, as well as the financial cost, for Rhode Island.

Method

On a quarterly basis, nursing homes are required to submit daily payroll data on staffing data to the Centers for Medicaid and Medicare Services (CMS), the federal regulatory agency of nursing homes. CMS uses this Payroll-Based Journal (PBJ) staffing data to calculate Registered Nurse (RN), Licensed Practical Nurse (LPN), Certified Nursing Assistants (CNA), and total nurse (RN + LPN + CNA) staffing hours per resident day (HPRD) and Five-Star Staffing Ratings.

For this report, we categorized nursing homes in Rhode Island using PBJ staffing data from Q2 2020 as either above or below the 3.8 total nursing HPRD threshold. Facility characteristics, such as bed size and ownership, and Five-Star Ratings were compared between the two groups.

For nursing homes below the 3.8 total nursing HPRD, two scenarios were simulated to get them above the 3.8 threshold. The first scenario was increasing only CNAs, which are least expensive (\$19.42/hour) option to meet minimum staffing levels. The second scenario was increasing all three types of nursing (RN (\$42.95/hour), LPN

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(\$25.68/hour), and CNA staffing) to maintain the same ratio between the three as currently in place.

To provide a more complete picture of expense, we calculated the additional costs of staffing based on prevailing wages, fringe benefits and payroll tax. We applied an average 20% fringe benefit costs to the annual salary costs for each additional staff. Payroll tax assumed 1.45% for Medicare, 6.2% for Social Security, 0.96% for federal unemployment insurance, and 0.72% for state unemployment insurance.

During the pandemic, census has dropped nationally over 10% and higher in hard hit states, particularly those in New England and tri-state areas. Fewer admissions to nursing homes has been driven by fewer elderly receiving hospital care that needs post-acute care (e.g. cancelling of elective surgeries), families reluctance to use nursing homes while they have been at home out of work or teleworking, or facilities have been closed to admissions because of COVID-19 outbreaks.

The cost to meet a minimum HPRD will vary depending on the census of a facility. We calculated the costs based on the current census but also for the census prior to COVID-19 pandemic, since census will increase overtime once the COVID vaccine rollout has helped curb the pandemic. Thus, as a sensitivity analysis, the analysis was repeated using PBJ staffing data from Q4 2019, before the COVID pandemic.

Results

Based on Q2 2020 PBJ staffing data, 57 (73%) of nursing homes in Rhode Island are below the 3.8 total nursing hours per resident day (HPRD) threshold. On average, these facilities are larger and have more Medicaid residents than the other 21 nursing homes in Rhode Island. A higher proportion of them are also For-Profit (See Table 1).

As for November 2020 Five-Star ratings, the nursing homes below 3.8 HPRD have on average lower overall, survey, and staffing ratings, but higher quality ratings (See Table 1).

Table 1: Characteristics and Five-Star Ratings of Rhode Island Nursing Homes Above and Below 3.8 Total Nurse Staffing Hours Per Resident Day (Q2 2020)

11	Below 3.8 Total Nursing HPRD	Above 3.8 Total
Number of SNFs	57	Nursing HPRD
Bed Size (Average)	109.1	21
Ownership	109.1	100.0
Non-Profit	4 (7%)	9 (43%)
For-Profit	53 (93%)	12 (57%)
Percent Medicaid (Average)	68%	59%
Five-Star Ratings (Nov 2020 Average)	100,0	3970
Overall	3.25	3.60
Survey	2.70	2.75
Quality	3.74	3.65
Staffing	3.58	4.75

To get the 57 nursing homes above the 3.8 total nursing HPRD, two scenarios were modeled. In Scenario #1 using only CNAs, 361 FTEs would be needed statewide at a total annual cost of \$24.8 million, including fringe benefits and payroll taxes. In the more expensive Scenario #2, 87 RNs, 57 LPN, and 216 CNA FTEs are needed at a total annual cost of \$33.3 million (See Table 2). This assumes census stays the same as it is now, which is much lower than pre-COVID-19 pandemic.

Table 2: Staff and Cost Estimates for Achieving 3.8 Total Nurse HPRD Using Q2 2020 PBJ Staffing Data

Nurse Type	Hours Needed	FTE Needed	Annual Salary Cost Increase	Annual Fringe Benefit Cost Increase	Annual Payroll Tax Cost Increase	Total Annual Cost Increase
Scenario	1: CNA Onl	У		-		
Total	2,711	361	\$19,212,263.29	\$ 3,842,452.66	\$1,792,504.16	\$24,847,220.11
Scenario	2: Maintain	RN-LPN-CI	NA Ratio		¥11102,004.10	#24,041,22U.11
RN	651	87	\$10,203,386.08	\$ 2,040,677.22	\$951,975.92	\$13,196,039.22
LPN	429	57	\$4,020,250.41	\$ 804,050.08	\$375,089.36	\$5,199,389.86
CNA	1,631	217	\$11,560,209.67	\$ 2,312,041.93	\$1,078,567.56	14,950,819.17
Total	2,711	361	\$25,783,846.17	\$ 5,156,769.23	\$ 2,405,632.85	\$33,346,248,25

Note: Hourly wages used \$42.95 for RN, \$25.68 for LPN, and \$19.42 for CNA. This table reflects getting 57 nursing homes to 3.8 total nursing HPRD. FTE = Full Time Equivalent.

To understand the cost to Rhode Island when census returns to pre-COVID-19 levels, we conducted a sensitivity analysis to understand the possible range in costs of setting a minimum 3.8 total nursing HPRD. The analysis was repeated using pre-COVID-19 Q4 2019 PBJ staffing data. Using this pre-COVID pandemic data, the number of nursing homes below the 3.8 HPRD threshold rose to 72.

Visit us at www.veificio.c.rc.orc Louvigh 6 202 The Come by trails Peacy Execution 41 Lung Lein Care A big driver for this increase was a higher census. The average Rhode Island nursing home census in Q4 2019 was 97 compared to 81 in Q2 2020. This is a 16.5% decline higher than the national average drop of about 10%.

Thus, in pre-COVID times and using Q4 2019 PBJ staffing data, it is more costly to get the Rhode Island's nursing homes above the 3.8 total nursing HPRD. In Scenario #1 using only CNAs, 816 FTEs would be needed at a total annual cost of \$56.1 million, including fringe benefits and payroll taxes. In the more expensive Scenario #2, 200 RNs, 121 LPN, and 495 CNA FTEs are needed at a total annual cost of \$75.4 million (See Table 3).

Table 3: Staff and Cost Estimates for Achieving 3.8 Total Nurse HPRD Using Q4 2019 (Pre COVID) PBJ Staffing Data

Nurse Type	Hours Needed	FTE Needed	Annual Salary Cost Increase	Annual Fringe Benefit Cost Increase	Annual Payroli Tax Cost Increase	Total Annual Cost Increase
Scenario	1: CNA On	ly		•		
Total	6,119	816	\$43,367,234.69	\$8,673,446.94	\$4,046,163.00	\$56,086,844.62
Scenario	2: Maintain	RN-LPN-C	NA Ratio			
RN	1498	200	\$23,490,640.50	\$4,698,128.10	\$2,191,676.76	\$30,380,445.35
LPN	906	121	\$8,490,841.68	\$1,698,168.34	\$792,195.53	\$10,981,205.54
CNA	3715	495	\$26,328,562.19	\$5,265,712.44	\$2,456,454.85	\$34,050,729.48
Total	6119	816	\$58,310,044.36	\$11,662,008.87	\$5,440,327.14	\$75,412,380.38

Note: Hourly wages used \$42.95 for RN, \$25.68 for LPN, and \$19.42 for CNA. This table reflects getting 72 nursing homes to 3.8 total nursing HPRD. FTE= Full Time Equivalent.

Discussion

For Rhode Island to implement a minimum nursing home staffing level of 3.8 total nurse hours per resident day, we estimate it will require between 361-816 FTEs and cost \$24.8-\$75.4 million dollars. The exact figure will depend on resident census.

Finding individuals to fill the positions will be the most challenging aspect of implementing a minimum staffing threshold. Nursing homes must compete with hospitals and others for a workforce that was in shortage before COVID and has been dwindling since.

To alleviate the staff shortage, policy makers should consider efforts to increase the supply. Such actions could include investing in more training programs or reducing barriers for such training programs to exist. CNA training programs often are limited by the federal policy on what facilities can and cannot provide onsite training. Local community colleges could be incentivized to expand their CNA training.

Another option for increasing supply is to incentivize workers to switch jobs and enter the industry. Often this involves providing higher wages. For example, hospitality and gig economy workers could be trained fairly quickly to become CNAs, but if the CNA pay is worse than their current source of income they have little incentive to pursue it.

States may also have to look to attract workforce from other states. State authorities could review and revise state licensure requirements to allow easier transfer of licenses from other states. For example, COMPACT states for RN licensure make it easier to attract RNs from other states.

By themselves, Rhode Island nursing homes are highly unlikely to be able to cover the costs associated with staffing to 3.8 HPRD. The average nursing home in the nation operates at a negative margin. Nursing homes often need the higher Medicare reimbursement rates to offset low Medicaid reimbursement rates. Our analysis found the Rhode Island nursing homes below the 3.8 HPRD threshold to be caring for a larger proportion of Medicaid residents. Thus, it could be challenging for them to find additional Medicare revenue to cover the costs of higher staffing without sacrificing care to vulnerable residents on Medicaid.

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Nursing Facility Rate Changes by Year

Fiscal Year	Date	Adopted	Index	Difference
FY2013	10/1/2012	3.1%	3.1%	3.1%
FY2014	10/1/2013	0.0%	2.9%	-2.9%
FY2015	10/1/2019	0.0%	3.5%	-3.5%
	4/1/2015	3.2%	0.0%	3.2%
FY2016	8/1/2015	-2.5%	0.0%	-2.5%
	10/1/2015	0.0%	3.2%	-3.2%
FY2017(Wage pass through) **	10/1/2016	3.3%	3.3%	0.0%
FY2018	10/1/2017	0.0%	2.8%	-2.8%
FY2019	7/1/2018	1.5%	1.5%	0.0%
	10/1/2018	1.0%	1.0%	2.7%
FY2020	10/1/2019	1.0%	3.0%	-2,0%

KNOW NURSING HOMES. KNOW CARE.

Know the facts on unfunded mandatory staffing.

Arbitrary staffing mandates are not an indicator of quality.

- Unfunded staffing mandates are irresponsible during this pandemic; national numbers disprove claims that mandates correlate to quality care.
- The 3.8 hour mandate would be the highest of all states in the nation and is being put forward with zero dollars in funding.
- Staffing mandates are arbitrary across the 50 states with twenty-five states having no mandate and twenty-five implementing mandates ranging from 1.9 to 3.8. In New England, CT is at a 1.9 mandate while VT is at 3.0.
- Massachusetts recently added a mandate into regulation after nine months of hearings and testimony from both sides. The compromise regulation is a 3.58 hour mandate accompanied by \$90 million in funds.
- According to the prestigious American Senior Rankings Report in 2019, RI was ranked 2nd
 in the country for quality care. Mandated staffing levels have little to no correlation with quality of
 care.

Unfunded staffing mandates will further cripple RI's nursing homes.

- Deep and consistent cuts to Medicaid by the State since 2012, combined with the UHIP debacle, have left many homes in financial distress.
- Despite a 2012 law mandating Medicaid reimbursements be paid with an inflationary
 adjustment of approximately three percent a year, Medicaid has been cut each year since but
 two. In total, hundreds of millions have been cut (a dollar cut from State funding costs us
 another dollar from the Federal match) and the nursing homes have been operating on dramatically

reduced funding to care for our most vulnerable residents.

- To top all of this, the UHIP program, which was supposed to make the healthcare system much easier for providers, instead took millions from their operations. With payments for some Medicaid residents taking more than three years, and others being lost in the system, nursing homes have been left to care for residents with no funds to reimburse them.
- Adding \$75 million in mandatory spending annually to a health care system already suffering economically is simply irresponsible.

The pandemic has created an unprecedented staffing crisis.

- As the State itself has found out in trying to staff the state's field hospitals there are no healthcare staff available to hire. This has been the plight of the nursing homes for some time. The cuts in Medicaid reimbursement year after year have kept wages far too low for nursing home workers and left hundreds of nursing home jobs vacant.
- Despite constant requests to the state for assistance, Medicaid continued to be cut and workers went elsewhere for jobs during the more robust economic times. This left the nursing homes already pushing for staff before the pandemic, and with the onset of the virus, still more workers have retired or stayed home for fear of the virus, or knowing they had a vulnerable family member at home.
- This, on top of huge swaths of staff testing positive and needing to be kept out of work for weeks at a time.

Dr. Alexander Scott herself has said implementing this policy is impossible.

- In a letter dated July 13, 2020, written about the mandatory staffing legislation, she stated: "For minimum staffing standards to be successfully implemented, sufficient data must be available to establish meaningful metrics around minimum staffing, there must be a sustained pool of nursing staff (RNs, LPNs, CNAs) from which to hire, and appropriate financing must be made available to support them."
- This policy is being done with no industry input, an absolutely depleted workforce, and no funding. This is a policy that unfortunately has been designed to make nursing homes fail.